

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (BA) NO. 239 / 2023

Sk. Rizwan @ Munna Mobile Sk.Jamil

..Applicant

versus

The State of Maharashtra

Th: Its PSO PS Gadgenagar, Dist. Amravati

..Respondent

.....
Mr.P.V. Navlani, Advocate for the applicant

Mr.M.J.Khan, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 17th March, 2023.

PC:

Heard learned counsel for both the sides, at length.

2. Despite there being a categorical statement made in para No.7 of the Application that the Police have obtained CCTV footage of the incident in question, learned APP submits that he does not have instructions on this point. According to learned counsel for the applicant the CCTV footage indicates that the allegations made against the present applicant are not correct.

3. This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 04.02.2023 in Crime No. 165/2023 registered at Police Station Gadgenagar, Amravati for the offences punishable under Sections 307, 34 of the Indian Penal Code and Sections 3,4 and 25 of Arms Act, 1959.

4. The accusation against the applicant is that he along with the co-accused Abdul Shoeb, Mujib and one another, have assaulted the informant by means of knife. Abdul Shoeb is the one who appears to have shown gun to the informant, threatened and asked the informant to go away else he will fire bullet. The informant got frightened and could not move. Abdul Shoeb then went back to the car and took out a knife and gave a couple of blows on the buttock of the informant. The applicant and others are said to have assaulted the informant by means of fists and blows.

5. The learned APP has drawn my attention to the supplementary statement of the informant wherein he has stated that he was assaulted by means of knife on his buttock also by Abdul Shoeb.

6. Considering the discrepancy in the statement and the fact that the Investigating Officer has not given instructions to the learned APP on the vital pleadings made by the applicant on affidavit that CCTV footage will exonerate the applicant, and further considering the fact that the applicant is in jail since 04.02.2022 and the fact that the I.O. himself has sought magisterial custody of the applicant, there appears no reason why the applicant should be incarcerated any further.

7. The learned APP submits that the knife has been seized from the house of the applicant. It means that the case of the prosecution is not that the knife has been discovered at the instance of the applicant.

8. When enquired, the learned counsel for the applicant submits that there are no criminal antecedents against the applicant.

9. For the reasons recorded hereinabove, in my considered view, no fruitful purpose would be served by keeping the applicant behind bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

10. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Sk.Rizwan @ Munna Mobile Sk.Jamil, be released on bail, in Crime No. 165/2023 registered at Police Station Gadgenagar, Amravati for the offences punishable under Sections 307, 34 of the Indian Penal Code and Sections 3,4 and 25 of Arms Act, 1959, on he furnishing P.R. bond in the sum of Rs. 50,000/- (Rupees fifty thousand) with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned Police Station on every Sunday from 2.00 to 5.00 pm, till filing of the charge-sheet.
- (iv) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number (s) to the Investigating officer and the Court concerned, and shall not change the mobile number(s) and the residence till the final disposal of the case.
- (v) After filing of the charge-sheet, the applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so

as to dissuade him from disclosing such facts to the Court or any Police Officer.

(vii) The applicant shall maintain law and order.

(viii) In case of breach of any condition, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

(ANIL L.PANSARE,J)

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