

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

CRIMINAL APPLICATION (BA) NO.236 OF 2023

Sahil Samad Khan Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri N. Qureshi, Advocate for applicant.

Shri M.J. Khan, APP for non-applicant/State.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 3, 2023.

This is an application under Section 439 of the Code
of Criminal Procedure (Code).

2. The applicant has been arrested on 20.02.2023 in Crime No.78/2023 registered with Police Station, Sakardara, Nagpur for the offence punishable under Sections 353, 504, 506 of the Indian Penal Code (for short, 'IPC').

3. The accusation against the applicant is that he has abused the informant electrical technician. It appears that on 20.02.2023, the informant had been to the house of the applicant for recovery of electricity dues worth ₹17,005/-. Since the applicant had not paid aforesaid charges, the informant was, in his official capacity went, to cutoff the electricity connection when the applicant quarreled with the him and tried to assault him and thus obstructed him from discharging public duty. Accordingly, FIR came to be lodged.

4. Learned counsel for the applicant submits that the applicant's father expired couple of years back and was not in a

position to pay the electricity bill. The applicant requested the informant to give him some time but he did not. He further submits that he has younger brother to look after so also the mother. He submits that applicant has now paid ₹17,005/-.

5. Learned APP has opposed the application and submits that there was no reason for the applicant to abuse public servant, who was discharging his duty. He further submits that the investigation is in progress and put forth an apprehension that the applicant will tamper with the prosecution witnesses, if released on bail.

6. Having heard both sides and having gone through the material, the applicant is 24 years old. He has allegedly indulged into the act of quarrel. However, he has now paid the amount that was due to show his bonafide. According to him, because of death of his father, he is/was in financial difficulty. As such that cannot be a ground to abuse or assault public servant however considering the his age and difficulty put forth by him a lenient view can be taken in this case as an exception.

7. Learned counsel for the applicant fairly submits that one criminal case is pending against the applicant which is of voluntary causing hurt (Section 323 of the IPC). The charge-sheet has been filed and applicant has been released on bail in the said case.

8. In view of above and considering the peculiar facts and circumstances of the case so also the presumption that the person accused of commission of a crime is considered

innocent until proven guilty, in my considered view no fruitful purpose will be served by keeping the applicant behind bars. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

9. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

10. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant- Sahil S/o Samad Khan, be released on bail, in Crime No.78/2023 registered with Police Station, Sakardara, Nagpur for the offence punishable under Sections 353, 504, 506 of the Indian Penal Code, on he furnishing P.R. Bond in the sum of ₹25,000/- with one or two sureties in the like amount.
- (iii) 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 same till the final disposal of the case.
- (iv) The applicant shall cooperate in the investigation and, if charge-sheet is filed, 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.

(v) 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/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicant shall maintain law and order.

(vii) In case of breach of any conditions, 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.

JUDGE

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