

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

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**CRIMINAL APPLICATION (BA) NO. 241/2023**

Pramod s/o Mahadeo Patil

.. Applicant

**versus**

The State of Maharashtra

Th: Its PS Buttibori Nagpur

.. Respondent

.....  
Mr. Sk. S. Ullah, Advocate for the applicant

Mr. S.S. Doifode, APP for Respondent  
.....

**CORAM:** ANIL L. PANSARE, J.

**DATED** : 17<sup>th</sup> April, 2023.

**PC:**

This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been arrested on 20.09.2022 in Crime No.590/2022 registered with Police Station, Buttibori, Nagpur, for the offence punishable under Section 307 of the Indian Penal Code.

2. Having heard both the sides and having gone through the material placed before me, it appears that the informant is the son of the injured Asha. Asha used to run a tea stall. The applicant was her regular customer. They developed illicit relationship and Asha went to reside with the applicant. After some days, Asha's husband gave her understanding and thereafter Asha came back to reside with her husband and son. As a result, the applicant got enraged and he allegedly made an attempt to murder Asha. He has allegedly given a dash to Asha from behind through his vehicle i.e. mini truck (Tata 407).

3. Asha's statement indicates that she has not seen the driver or the mini truck, but later on came to know from someone else that the applicant's mini truck has given her dash. The only eye witness is Riya who states that she has seen the incident. She has given registration number of the vehicle to be MH 31 M.6095. She has blamed the mini-truck driver for the accident. However, she has not seen who was driving the truck.

4. It appears that the truck is registered in the name of the applicant and that therefore he is being blamed for the accident. This accusation, in absence of any witness seeing the applicant driving the vehicle, is a weak piece of evidence. Nonetheless, the prosecution will get the opportunity to put forth its version which will be tested by the defence in the cross-examination. However, at this stage, considering the nature of evidence, it will not be proper to continue incarceration of the applicant.

5. When inquired of antecedents, learned counsel for the applicant submits that there are no criminal antecedents. The applicant is residing at the given address since long. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial.

6. Considering the peculiar facts of the case and the nature of evidence against the applicant so also the presumption that the person accused of a crime is considered to be innocent until proven guilty, I am of the considered view that no fruitful purpose will be served by keeping

the applicant in jail. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

7. The observations made in this order are prima facie in nature and are made for deciding the present application only. The trial Court shall not get influenced by the observations made in this order.

8. Resultantly, following order is passed :-

### **ORDER**

- (i) The application is allowed.
- (ii) Applicant – Pramod Mahadeo Patil, be released on bail in Crime No. 590/ 2022 registered with Police Station, Buttibori, Nagpur, for the offence punishable under Section 307 of the Indian Penal Code, on he executing PR. Bond in the sum of Rs.25,000/- with one surety 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 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.
- (v) The applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offences. The applicant shall not seek adjournment, except under extreme circumstances to the satisfaction of the trial Court.

- (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.

**[ANIL L. PANSARE, J.]**

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