

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.267 OF 2023

Vijay Gopalrao Kakde

Vs.

State of Maharashtra, through Police Station Officer, Sarmaspura, District Amravati

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

Court's or Judge's orders

Mr. M. P. Kariya, Advocate for applicant.

Mr. M. J. Khan, APP for respondent /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/08/2023

1. The present application is for seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.248/2022 for the offence punishable under Section 307, 326 and 324 read with Section 34 of the Indian Penal Code. The applicant is arrested on 29.09.2022 since then he is in jail.

2. The accusation against the present applicant is on the basis of report lodged by Police Head Constable Dadarao Wankhade on an allegation that on 28.09.2022 injured was present in front of his house, at that time there was quarrel between the present applicant and the injured and his family members, on account of uprooting one plant. It is alleged that the present applicant gave a blow of knife on his abdominal portion due to which, he has sustained grievous injury. Initially, the crime was registered under Section 326 of the Indian Penal Code,

subsequently it was converted under Section 307 of the Indian Penal Code.

3. As per the contention of the present applicant that he is falsely implicated in the alleged offence, due to the previous dispute. In fact, he is not involved in the said crime. As far as the injury sustained by the injured is concerned, now, he is discharged from the hospital. There is no apprehension of death to the injured. The investigation is completed and chargesheet is also filed. The applicant is in jail for sufficient period. His further custody is not required and hence, he be released on bail.

4. The said application is strongly opposed by the State on the ground that there is a *prima facie* case against the present applicant. Moreover, there are criminal antecedents. In all 13 offences are registered against the present applicant. The present applicant is a habitual offender, if he is released on bail, there is every likelihood that he would be involved in a similar type of crime and prays for rejection of the application.

5. Heard learned Counsel Mr. Kariya for the applicant, he submitted that as far as the criminal antecedents of the present applicant are concerned, now, he is acquitted from all the offences except one preventive action. He has further submitted that the

investigation is completed and chargesheet is filed. The injured is also discharged from the hospital and there is no apprehension of death to the injured. In view of that, the applicant be released on bail.

6. The learned APP strongly opposed the application on the ground that there is *prima facie* material against the present applicant to connect him with the alleged offence. The offence is of serious nature, if the applicant is released on bail, he will commit the similar type of offence. In view of that, he prays for rejection of the application.

7. Having heard the learned Counsel for the applicant and learned APP for the State. Perused the investigation papers, it reveals that the quarrel took place on trivial reason i.e. on account of uprooting one plant. The applicant admittedly has given a blow on vital part of body of the injured. The injured has sustained grievous injury on his abdominal portion and for sufficient period, he was under treatment. However, now he is discharged from the hospital and now there is no apprehension regarding his death. The investigation is also completed and the chargesheet is filed. As far as the criminal antecedents are concerned, learned Counsel for the applicant placed on record the copies of the judgments which shows that in various offences the present applicant is already acquitted by the trial Court.

Moreover, merely because the criminal antecedents are there, it cannot be a ground to reject the application. Considering the same, as further custody of the present applicant is not required and for sufficient period, he is behind bar. The application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Vijay Gopalrao Kakde** is released on bail in connection with Crime No.248/2022 for the offences punishable under Sections 307, 326 and 324 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Sarmaspura, Tahsil Achalpur, District Amravati, till conclusion of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.
- (v) On contravention of any conditions, the bail granted to the applicant deserves to be cancelled.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)