

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

CRIMINAL APPLICATION (ABA) NO.202 OF 2023

Prem Shrikrishna Naik

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station Frezarpura,
District Amravati

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

Court's or Judge's orders

Shri N. B. Karade, Counsel for applicant.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/06/2023

1. The present application is filed by the applicant for grant of anticipatory bail in the event of his arrest in connection with Crime No.99/2023 registered with Police Station Frezarpura, District Amravati for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

2. The applicant is apprehending his arrest at the hands of police, as crime is registered against the present applicant. On the basis of report lodged by one Sangit Kisanrao Durne. As per allegation in the FIR, it is alleged that the co-accused Rohit Mudholkar, Atul Mudholkar, Aniket and Prem Naik are residing near the house of the informant. There was previous quarrel between the brother of the informant, prior to one year.

On 30.01.2023 at about 11.00 a.m. when the son of the informant was proceeding on his two wheeler the co-accused Rohit Mudholkar, Atul Mudholkar, Aniket and Prem Naik restrained him and assault him. At the relevant time, the present applicant came on his motorcycle and took all the assailants on his motorcycle from the spot of incident. On the basis of said report, police have registered the offence.

3. It is contention of the applicant that only allegation against the present applicant is that he assisted the other co-accused for fleeing away from the spot of incident. Now, investigation in respect of the role of the present applicant is already completed, as he has already produced his motorcycle which was seized by the police. Now his physical custody is not required. Hence, he be released on anticipatory bail in the event of his arrest.

4. The said application is strongly opposed by the State on the ground that the applicant along with other co-accused in furtherance of their common intention assaulted the injured and present applicant has also assisted the co-accused to flee away from the spot of incident. If applicant/accused is released on bail he will tamper with the prosecution evidence. Hence bail application deserves to be rejected.

5. Heard learned Counsel for the applicant as well as learned APP for the State. Though learned APP has strongly opposed the application but admitted that the motorcycle is already seized which was used by the present applicant for carrying the other co-accused. On perusal of the recitals of the FIR, it is clear that only allegation against the present applicant is that he assisted the co-accused to flee away from the spot of incident. Considering the allegation against him his physical custody is not all required as the incriminating motorcycle is already seized by the police, during the investigation. In view of that, the application deserves to be allowed, by imposing certain conditions. Hence, I proceed to pass following order:-

(i) The application is allowed.

(ii) The applicant/accused is released on anticipatory bail in the event of his arrest in respect of Crime No.99/2023 registered with Police Station Frezarpura, District Amravati for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code on executing PR bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

(iii) The applicant/accused shall attend Police Station as and when required for investigation purpose.

(4)

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(iv) The applicant/accused shall submit his mobile/phone number, along with his address with address proof, before the Investigating Officer.

(v) The applicant/accused shall not induce threat or promise any other witnesses who are connected with the alleged crime.

Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate