

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

CRIMINAL APPLICATION (BA) NO.321 OF 2023

Atul @ Suraj Chandramani Bhele

Vs.

The State of Maharashtra, Through Station House Officer, Kalamb Police Station,
Kalamb, District Yavatmal

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

Court's or Judge's orders

Shri. V. D. Darne, Counsel for applicant.

Shri. A. M. Kadukar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2023

1. The present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure in respect of Crime No. 356/2021 registered at Kalamb Police Station under Section 307 read with 34 of the Indian Penal code. The applicant is arrested on 27.06.2021 since then he is in jail.

2. The Crime is registered on the basis of report lodged by Mangesh Sawarkar on an allegation that on 26.06.2021 he had been to his agriculture land at Kamatwada vicinity. At about 1.00 to 1.15 p.m. when he was in the Dhaba of one Kakaji for having lunch at that time, present accused was also present there and was taking his lunch. At the relevant time injured Pravin asked him to finish his lunch. He got annoyed and gave a blow of knife to the Pravin on his abdominal portion. Due to the said blow injured Pravin has sustained grievous injury and he was immediately shifted to the

hospital. On the basis of said report, police have registered the offence against the present applicant.

3. As per contention of the present applicant, since the date of incident, he is in jail. It is the case of single injury. Now investigation is completed and charge-sheet is also filed. Applicant is in jail since 27.06.2021 i.e. from last two years. There is no progress in the trial. Now investigation is completed. Injured is already discharged from the hospital. He will abide by all the conditions imposed by this Court and hence he be released on bail.

4. The said application is strongly opposed by the State on the ground that applicant is a habitual offender. There are criminal antecedents against him. In the present case, the Investigating Officer has recorded the statements of the eye witnesses which shows the involvement of the present applicant in the alleged offence. If the applicant is released on bail, he will tamper the prosecution evidence, therefore, bail application deserves to be rejected.

5. Heard learned Counsel Shri Darne for the applicant. He reiterated the contentions and submitted that this is a case of single injury. Now the injured is already discharged from the hospital. No purpose will be served by keeping the present applicant behind the bar. The present applicant is in jail since last two years. Though investigation completed and charge-sheet is filed there is no progress in the trial. Applicant is the only

bread earner of the family. He will abide by all the conditions imposed by this Court. As far as the previous offences registered against the present applicant is concerned, approximately in all offences he is acquitted from the charges. Now no offence is pending against him. Considering all these aspects, he be released on bail.

6. Learned APP Shri Kadukar for the State strongly objected the application and submitted that if applicant/accused is released on bail there is apprehension that he will tamper the prosecution evidence. Hence, bail application be rejected.

7. Heard both the sides and on perusal of the investigation papers, it seems that the alleged incident has taken place in sudden quarrel. In the said sudden quarrel the applicant has taken out the weapon like knife and gave blow of knife on the abdomen of the injured. The injured had sustained grievous injury. Now he is discharged from the hospital. The investigation is also completed and charge-sheet is filed. Admittedly, the present applicant is in jail since the date of his arrest i.e. on 27.06.2021 i.e. approximately from two years. Trial is not yet commenced. As far as the apprehension regarding tampering of the witnesses is concerned, certain conditions can be imposed on the applicant. Considering that charge-sheet is already is filed and further custody of the applicant is not required. No purpose will be served by keeping him behind the bar.

The present application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

- (i) The application is allowed.
- (ii) The applicant Atul @ Suraj Chandramani Bhele is released on bail 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 Kamatwada, Taluka Kalamb, District Yavatmal till conclusion of the trial.
- (iv) The applicant shall not induce, pressurize or temper the prosecution evidence by contacted the prosecution witnesses in any manner or through anybody.
- (v) The applicant shall submit his mobile/phone number along with his address with address proof.
- (vi) The applicant shall submit the names of his two nearest relatives and their address with their address proof.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)