

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

CRIMINAL APPLICATION (BA) NO.372 OF 2023

Ishwar s/o Atmaram Jadhav

Vs.

State of Maharashtra, Through Police Station Officer, Ramnagar, Wardha, District
Wardha

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

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicant.

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

Ms. Rajani Gajbhiye, Advocate h/f Ms. Sonali B. Khobragade, Advocate for
intervener.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/06/2023

1. The present application is filed for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.616/2022 registered with Police Station, Ramnagar, Wardha, District Wardha for the offence punishable under Sections 326 of the Indian Penal Code which subsequently converted under Section 307 of the Indian Penal Code and also added Section 387 of the Indian Penal Code and Section 4 and 25 of Arms Act. The applicant is arrested on 17.07.2022.

2. The crime is registered on the basis lodged by Vishal Radhakisan Rajpurohit on an allegation that on 17.07.2022 he has opened his shop namely Nav Durga Sweet Mart, Arvi Naka Square, Wardha. He is also

running the another shop namely Nav Durga Sweet. At about 3.30 p.m. when his uncle and father were present in the shop the present applicant Ishwar Jadhav entered in the shop and asked for the Samosa and therefore, there was quarrel between them. He took out the knife which was along with him and gave a blow of the said knife to his uncle Jasrajsing Rajpurohit. Due to the said blow, Jasrajsing sustained grievous injury. The knife was stuck in his arm. On the basis of the said report, police have registered the offence against the present applicant.

3. As per contention of the present applicant that in a sudden quarrel, the injury is caused to the injured. The present applicant has also sustained three injuries which are in the nature of incised wound, thus, whatever happen is in the sudden quarrel. Now investigation is completed. Charge-sheet is filed. The applicant is already in jail since from last one year. Considering the charge-sheet is filed and the injured is also out of danger. Now there is a settlement between the parties. Considering all these aspects. He be released on bail.

4. The said application is strongly opposed by the State on the ground that the injuries sustained by the injured is grievous in nature. The medical report itself shows that the knife was stuck in the arm which shows the force used by the present applicant when assaulting

the old man. Considering the *prima facie* material against the present applicant, bail application deserves to be rejected.

5. It is further contended by the State that there are criminal antecedents against the present applicant and if he is released on bail, there is every likelihood that he would commit similar type of offence in future and prayed for rejection of the bail.

6. Heard learned Counsel Mr. Rai for the applicant. He submitted that applicant is in jail since 17.07.2022 i.e. approximately from one year. Now investigation is completed. Not only the injured but the present applicant has also sustained three injuries. Thus, it is apparent that there was scuffle between the parties and in that scuffle injured and as well as the present applicant both have sustained the injuries. Mother of the present applicant has already filed the criminal complaint before the Magistrate under Section 156(3) of Cr. P.C. which is under consideration. Now investigation is completed and both parties have decided to settle the dispute between them. Considering all these aspects, applicant be released on bail, as no purpose will be served by keeping the applicant behind bar.

7. Learned APP Mr. Khan for the State vehemently submitted that considering the criminal

antecedent against the present applicant and the manner in which he has assaulted the old man, application deserves to be rejected.

8. Having heard both the sides and on perusal of the investigation papers. Admittedly, the investigation papers shows that the injured has sustained the grievous injuries and the knife was stuck in the arm of the injured which shows that the nature of the force used by the present applicant while assaulting the injured. At the same time, the investigation papers shows that present applicant has also sustained three incised wound in the alleged incident. Now, investigation is completed and charge-sheet is filed and the injured is also out of danger and discharged from the hospital. Admittedly, the amicable settlement cannot be considered as the offences alleged are not compoundable offence. However, considering that, now the investigation is completed and no purpose will be served by keeping the applicant behind bar. The application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

(i) The application is allowed.

(ii) The applicant namely Ishwar s/o Atmaram Jadhav is released on bail in connection with Crime No.616/2022 registered with Police Station, Ramnagar, Wardha, District Wardha, on executing PR

bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not leave the jurisdiction of the Wardra Sessions Court without prior permission of the Sessions Court.

(iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate