

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

CRIMINAL APPLICATION (BA) NO.376 OF 2023
Roshan s/o Shamlal Khote Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri Amol Hunge, Advocate for applicant.
Shri S.M. Ghodeswar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 05, 2023.

The present application is under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.1767/2022 registered with Police Station, Wardha (City), District Wardha for the offence punishable under Sections 307, 324 read with Section 34 of the Indian Penal Code. The applicant is arrested on 04.12.2022 and since then the applicant is in jail.

2. The crime is registered on the report lodged by Prashant alias Golu Prasadilal Tarachandi on an allegation that, on 03.12.2022 at about 09.45 pm, when they had been to Buddha Vihar, they were assaulted by the present applicant and other co-accused by means of knife, iron rod and stones. Due to the said assault, he as well as his brother Manish had sustained grievous injuries. On the basis of said report, the police have registered the crime against the present applicant.

3. As per contention of the present applicant that he is falsely implicated in the alleged offence, infact he was not present at the spot of the alleged incident and merely on suspicion he is arrested. Since the date of the incident he is behind bar. Now the investigation is completed and charge-sheet is filed. His further custodial interrogation is not required and hence he be released on bail.

4. The said application is strongly opposed by the State on the ground that in the alleged incident three persons sustained the injuries, which are grievous in the nature. If the applicant/accused is released on bail, he will tamper with the prosecution evidence and hence the bail application deserves to be rejected.

5. Heard learned counsel for the applicant Shri Amol Hunge and learned APP for the State Shri Sushil Ghodeswar. On perusal of the investigation papers, it reveals that the present applicant alongwith other co-accused assaulted the informant and his brother by means of knife and iron rod. As far as the present applicant is concerned, the allegation against the present applicant is that he has assaulted the injured Prashant alias Golu by means of iron rod. The medical certificate is on record. As per the medical certificate, the injury i.e. stab wound which jejunal perforation, which endanger the life of the patient requiring surgical intervention. Admittedly, this stab injury is not attributed to the present applicant. As far as allegation

against the present applicant is concerned, he assaulted both the injured on their head. The injury by the iron rod is in the nature of laceration wound. Now the injured are discharged from the hospital, investigation is completed and charge-sheet is filed. Thus, even assuming the allegations as it is further custodial interrogation of the present applicant is not required. The incriminating weapons are already recovered by the investigating officer during the investigation and already forwarded for chemical analysis. The trial will take its own time for its final disposal. No purpose will be served by keeping the applicant behind bar considering the allegations against him. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. The applicant – Roshan S/o Shamlal Khote be released on bail in connection with Crime No.1767/2022 registered with Police Station, Wardha (City), District Wardha for the offence punishable under Sections 307, 324 read with Section 34 of the Indian Penal Code, on he executing PR bond in the sum of ₹25,000/- with one surety in the like amount.
- iii. The applicant shall furnish the cellphone number and address with address proof.

- iv. The applicant shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.
- v. The applicant shall attend the trial regularly without seeking any exemption.

With this, the application is disposed of.

JUDGE

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