

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

CRIMINAL APPLICATION (ABA) NO.253 OF 2023

Manohar s/o Bapuraoji Jambhulkar

Vs.

State of Maharashtra through Police Station Officer Police Station, Gadge Nagar,
Amravati

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

Court's or Judge's orders

Mr. A. S. Dhore, Counsel for applicant.
Mr. M. J. Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/06/2023

1. The applicant is apprehending arrest in respect of Crime No.358/2023 registered with Police Station Gadge Nagar, Amravati for the offence punishable under Sections 147, 148, 307, 324 read with Section 149 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of the police as crime is registered against the present applicant on the basis of report lodged by Kamalsing Tejulal Hadamtiya wherein it is alleged that in all five accused persons namely, Prakash Jambhulkar, Surendra Jambhulkar, Shubham Jambhulkar, Manohar Jambhulkar and Anil Wankhede assaulted the informant on account of previous dispute regarding the amount of Rs.1500/-. As per the allegation in the FIR, present applicant assaulted him fist and kick blows and by brick.

As per the contention of the present applicant nothing is to be recovered from him. The bricks which alleged to be used in commission of the crime already recovered at the time of spot panchnama and thus custodial interrogation of the present applicant is not required and hence he be released on bail in the event of his arrest.

3. The said application is strongly opposed by the State on the ground that the injured has sustained grievous injuries like incised wound, custodial interrogation of the present applicant is required and hence bail application deserves to be rejected.

4. Heard learned Counsel Mr. Dhore, for the applicant. He reiterated the contentions and submitted that as far the present applicant is concerned, the assault is not premeditated. Moreover, only allegation against the present applicant is that he assaulted the injured by fist and kick blows and not used any weapon. As far as allegations regarding the use of brick is concerned which is already recovered from the spot of incident. The knife has been recovered from the other co-accused. Therefore, custodial interrogation of the present applicant is not required.

5. Per contra, learned APP strongly opposed the application on the ground that custodial interrogation is required as prime role is attributed to the present applicant. Hence, bail application deserves to be rejected.

6. Heard both sides. Perused the FIR. Admittedly only role attributed to the present applicant is that he assaulted the injured by kicks and fist blows and brick. The incriminating article brick is already recovered. Moreover, general allegation is made against the two accused i.e. present applicant and other co-accused that they have used the bricks. Nothing is to be recovered from the present applicant therefore, his physical custody is not required. Other co-accused are already released on bail after due investigation. In view of that, the interim relief granted by this Court deserves to be confirmed. Hence, I proceed to pass the following order:-

(i) In the event of the arrest in Crime No.358/2023 registered with Police Station Gadge Nagar, Amravati for the offence punishable under Sections 147, 148, 307, 324 read with Section 149 of the Indian Penal Code, the applicant namely, Manohar s/o Bapuraoji Jambhulkar is hereby released on bail on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(ii) The applicant shall attend the Police Station as and when required for investigation purpose and shall cooperate with the investigating agency.

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

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person concerned with the above crime and shall not tamper with the evidence.

(v) On the breach of any condition the bail granted to the present applicant deserves to be cancelled.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate