

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

CRIMINAL APPLICATION (ABA) NO.346 OF 2023

Rahul s/o Kailas Nimrot (Rajput)

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Dhad, District
Buldhana

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

Court's or Judge's orders

Mr. R. D. Karode, Counsel for applicant.

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

Mr. Sagar Thakkar, Counsel h/f Mr. A. J. Thakkar, Counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 17/07/2023

1. The present application is for grant of anticipatory bail in the event of arrest in connection with Crime No.41/2023 registered with Police Station, Dhad, District Buldhana, for the offence punishable under Sections 307, 324, 504 and 506 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Dilip Kalusing Nimrod on an allegation that there was previous dispute between the son of the informant and the present applicant and other co-accused. On 28.2.2023, he received a phone call of one Gajanan from his village and said Gajanan has called him in the Gym and there was apprehension of the quarrel between his sons and the present applicant.

Immediately, he reached at Gym. At the relevant time, the present applicant and other co-accused came at the spot by holding weapon like wooden log and stick in their hands. As per the allegation in the FIR, the present applicant was holding wooden log in his hand and gave a blow of the said wooden log on the head of the injured Vishal Nimrod. Due to the blow, said Vishal has sustained grievous injuries and he immediately shifted to the hospital. On the basis of said report, crime is registered against the present applicant and other co-accused.

3. As per the contention of the present applicant, he is a student and said incident occurred out of the free fight. The cross-complaints are registered against each other. Even the present applicant has sustained the grievous injuries in the said incident. Now, the applicant appeared for the CET examination, and if he is sent behind bar, then his entire carrier could be at stake. His physical custody is not required and hence, he be released on anticipatory bail.

4. The said application is strongly opposed by the State on the ground that due to the assault by the present applicant by means of wooden log, the injured has sustained the grievous injures. He undergone one surgery due the head injury. The Scan report shows that injured had sustained chronic organised hypodense

extradural hematoma over right frontal lobe with mild mass effect. Thus, the injured was under the apprehension of death due to the injury sustained by him. The custodial interrogation of the present applicant is required as interrogation as well as the incriminating article i.e. weapon is yet to be recovered, and prays for rejection of the application.

5. Heard learned Counsel Mr. Karode for the applicant. He reiterated the contention that the applicant is a student appeared for the CET examination. The alleged incident has taken place due to the enmity between them. The present applicant has also sustained the injuries as he was also assaulted by the injured and other persons and sustained the head injury. Regarding the same cross-complaint is already filed. As far as the custodial interrogation of the present applicant is concerned, which is not required for the investigation purpose. Considering all these aspects, he be released on bail in the event of his arrest.

6. The learned APP reiterated the contentions and submitted that due to the blow on the head injured has sustained the grievous injury. The injured had undergone the surgery. Thus, he was under the threat of death, due to the assault. The role of assault is attributed to the present applicant, who alleged to be assaulted by means of wooden log. Considering the *prima facie*

material against the present applicant his custodial interrogation is required. The wooden log is to be recovered from the present applicant. Hence, he prays for rejection of the application.

7. Having heard the learned Counsel for the applicant and on perusal of the recitals of the FIR, which reveals that on 28.02.2022, there was a quarrel between injured and the present applicant. As per the allegation, the present applicant came on the spot by holding the wooden log in his hand. Other co-accused are also holding the weapons like stick in their hands. In the said assault, the present applicant has given blow of wooden log on the head of injured, due to which, he sustained the injuries. Regarding the said incident, the present applicant has also lodged the report against Dilip Kalusing Nimrod, Gajanan Pawar, Vishal Dilip Nimrod and Lalita Nimrod, wherein the allegations are made that injured and other family members have assaulted him by means of stick on his head and he has also sustained the injury in the said incident.

8. Thus, it is apparent that cross-complaints are filed regarding the alleged incident. As far as the occurrence of the incident is concerned, there is no dispute regarding the occurrence of the incident. On perusal of the Medical Certificate and C.T. Scan Report and some photographs placed on record. It is apparent

that injured has sustained the head injury in the said incident. Immediately, he was shifted to the hospital. The injured has undergone the surgery. The Scan Report and the Medical certificate show that due to the injuries the injured has sustained extradural haemorrhage along with the right frontal lobe. The maximum dimensions measured was 25 X 57 X 26mm. The injured has also sustained the linear undisplaced fracture involving the inner table of right frontal bone. Thus, it is apparent that the injured has sustained the grievous injuries and he was under the appreciation of death due to the said incident.

9. It is submitted by the learned Counsel for the applicant that the custodial interrogation of the present applicant is not required. The custodial interrogation is not required is one of the consideration, however, this Court has to see the gravity of the offence, the circumstance in which the incident has occurred, whether the applicant would be available for the trial, if he is released on bail. If this consideration is applied to the present case, though the applicant is a student but considering his role that he has used the wooden log and injured has sustained the grievous injuries. No case is made to made out to protect him by granting the anticipatory bail. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

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10. The application is hereby rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate