

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

CRIMINAL APPLICATION (BA) NO. 518 OF 2023

SHEIKH SHOHEB SHEIKH MUBARAK

VS.

THE STATE OF MAHARASHTRA

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri. P. S. Chavan, Advocate for applicant.
Shri. I. J. Damle, APP for respondent State.

CORAM : URMILA JOSHI-PHALKE J.

DATE : 14/07/2023

Present application is for seeking regular bail under Section 439 of the Cr.P.C. in connection with Crime No.371/2021 registered with Police Station, Tahsil District Nagpur City for the offence punishable under Sections 143, 144, 147, 148, 149, 188, 307 read with 34 of the Indian Penal Code. The applicant is arrested on 14/05/2023. The accusation against the application is on the basis of report lodged by Sharik Khan s/o Sher Khan on an allegation that on 23/04/2021, he was chit-chatting with some people at the square in front of his house, at the relevant time present applicant came along with 5-6 persons holding wooden plank and knife in

their hands and assaulted the informant. On the basis of said report police registered crime against the applicant.

2. As per the contention of the applicant there was scuffle between the parties. There was cross complaints filed against each other bearing Nos.371/2021 and 372/2021 respectively. It is further contention of the applicant that the informant sustained simple injury and he is immediately discharged from the hospital. Since the date of arrest i.e. 14/05/2023, the applicant is in custody. Now his further custodial interrogation is not required. Hence, he be released on bail.

3. The said application is strongly opposed by the State on the ground that present applicant was absconding. A specific role is attributed to the applicant and investigation is yet to be completed. Considering the same, the application deserve to be rejected.

4. Heard learned counsel for the applicant Shri.PS.Chavan, he reiterated the contention and submitted that the injured has sustained simple injury and he was immediately discharged from the hospital. Section 307 of the IPC is not attracted. He

further submitted that both the parties have submitted that as there was free fight between them and all the co-accused are released on bail. Considering the same, now, nothing is to be remained to investigate and no purpose will be served by keeping the present applicant behind the bar.

5. Per contra learned APP submitted that present applicant was absconded for two and half years and charge-sheet against the present applicant is yet to be filed.

6. Heard both sides. Perused the investigation papers. It reveals from the investigation papers that cross complaints are filed against each other vide Crime Nos.371/2021 and 372/2021 respectively. As far as the allegation against the present applicant is concerned that he was carrying weapons in his hand like wooden plank and knife he was in custody for sufficient period. During investigation, the medical certificate of the injured was collected by the Investigating Officer. He sustained simple injury. Merely because the applicant was absconded, his bail application cannot be not rejected.

7. It is further contended by the State that there are in all eight criminal antecedents against the applicants. The most of the crimes are under Section 142 of the Maharashtra Police Act. The Crime No.8 is the present crime and the crimes which are listed at Sr. Nos.1 to 6, the present applicant is already acquitted. Considering that the injured has sustained simple injury and he has discharged from the hospital, the part of the investigation is practically completed though charge-sheet is not filed. No purpose will be served by keeping the applicant behind the bar. In view of that application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :-

ORDER

(A) The application is allowed.

(B) The applicant, namely, **Sheikh Shoheb Sheikh Mubarak** be released on bail in connection with Crime No.371/2021 registered with Police Station, Tahsil District Nagpur City for the offence punishable under Sections 143, 144, 147, 148,149, 188, 307 read with 34 of the Indian Penal Code, on executing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty

Five Thousand only) with one solvent surety in the like amount.

(C) The applicant shall attend the concerned Police Station once in a week i.e. on Monday between 10.00a.m. to 1.00p.m. till conclusion of the trial.

(D) The applicant shall furnish his cell phone number and residential address with address proof.

(E) 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.]