

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

CRIMINAL APPLICATION (BA) NO. 539/2023

Suryakant Vinayak Zanjali V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A. Daga, counsel for the applicant.

Mr S.M. Ghodeswar, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 25/07/2023.

1. Heard.

2. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No.204/2022 registered with Police Station-Veltur, District-Nagpur, for the offence punishable under Sections 307, 452 read with Section 34 of the Indian Penal Code. The applicant is arrested on 27/12/2022 and since then he is in jail.

3. The crime is registered on the basis of report lodged by one Umrao Dajiba Vaidya, who is the father of the victim. As per the allegation, the co-accused Hitesh Raut was having one sided love affair with daughter of the informant namely Sakshi, as the injured has not responded him. On 26/12/2022, when injured was returning from the college, the co-accused has given blow

by knife on her neck and caught hold the victim. On the basis of said report, the police have registered the crime against the present applicant as well as the other co-accused.

4. As per contention of the present applicant that even the allegations are taken as it is, the only allegation against the present applicant is that he caught hold the injured. The applicant was not having knowledge regarding the act of the co-accused. Now, the investigation is completed and charge-sheet is filed, his further custody is not required and hence, he be released on bail.

5. The said application is strongly opposed by the State on the ground that the present applicant has caught hold the injured, due to which the co-accused was able to give blow by knife on her neck. The injured has sustained the grievous injury. There is a prima-facie material against the present applicant and hence, the criminal application deserves to be rejected.

6. Heard learned counsel for the applicant. He reiterated the contentions and submitted that the statement of the injured was recorded by the Police as well as it is recorded by the Magistrate under Section 164 of the Code of Criminal Procedure, 1973. The only role

attributed to the present applicant is that she was caught hold by the present applicant, and thereafter co-accused has given blow on her neck. Now, investigation is completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind the bar.

7. The learned APP strongly opposed the present application on the ground that the present applicant has played vital role. He has caught hold the victim, and therefore, the co-accused was in a position to give a blow by knife on the vital part of the victim. Considering the circumstances, in which the alleged incident has taken place, the application of the applicant deserves to be rejected.

8. Having heard both the sides and on perusal of the statement of the victim, it reveals that on 26/12/2022 when she was at home, at the relevant time, the co-accused and the present applicant came in front of house, co-accused called her and disclosed that he is having love affair with him and insisted her to come along with him, therefore, she started running away from the said place. At the relevant time, present applicant has caught her and the co-accused has given blow on her neck. Thus in the circumstances, in which the incident has taken place shows that the injured has attempted to escape from the clutches of the co-accused, however, present applicant has

caught hold her and the co-accused has given blow of knife on her neck.

9. Moreover, considering that the role played by the present applicant which is vital role, the application of the present applicant deserves to be rejected, as prima facie case is made out against the present applicant. Though the charge-sheet is filed, however, considering the role played by the present applicant, this is not the case in which the discretion can be used in favour of the present applicant.

In view of that, criminal application deserves to be rejected. Accordingly, I proceed to pass following order:

Criminal Application is **rejected**.

JUDGE