



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

CRIMINAL APPLICATION (BA) NO. 597 OF 2023

(MANISH KAMAL SHAHU

VS

STATE OF MAH. THR. PS YASHODHARA NAGAR, NAGPUR.)

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

Court's or Judge's Orders.

Mr. R. H. Rawlani, Mr. Atul R. Rawlani, Mr. Hariramani &
Mr. Mohit Nanak Advocates for applicant.
Mr. A. M. Kadukar, APP for respondent State.

CORAM : M. W. CHANDWANI, J.

DATE : 08/09/2023

The present applicant seeks regular bail in connection with crime No.481/2021, registered with Yashodharanagar Police Station, District Nagpur, initially for the offence punishable under Sections 307 and 504 read with Section 34 of the Indian Penal Code, 1860 (IPC) and subsequently Sections 302, 143, 144, 147, 148 and 149 of the IPC were added.

2. Heard learned counsel for the applicant, as well as learned APP for the respondent State. I have gone through the reply filed by State and charge-sheet.

3. The prosecution's case is that on 19/07/2021 at about 9.30 p.m. when deceased was

standing in front of Shaurya Fitness Gym, the applicant/accused Manish Shahu along with other co-accused and two persons came there. On the previous quarrel between the relative of deceased and applicant, they assaulted the deceased and gave knife blow on the abdomen of deceased Atul Dhakate. The deceased sustained grievous injury. He was taken to the hospital; the deceased succumbed to the injury. On the complaint lodged by Mangesh Ramkrishna Dhakate, aforesaid offences came to be registered.

4. It is contended on behalf of the learned counsel for the applicant that though applicant was shown as main accused and in dying declaration the name of present applicant is appearing, knife blow is not attributed to the present applicant. According to him, even eye witness has not attributed any fatal assault towards the present applicant. The only allegation against the present applicant is giving fists blows to the deceased. He submits that the accused Tushar and Sunil from whom the knife and blood stained clothes have been recovered, are released on bail and the case of the present applicant is on lesser footings than of accused Tushar and Sunil. Nothing incriminating is recovered from the present applicant. Therefore, he submits that the applicant is entitled to be enlarged on bail.

5. Per contra learned APP for the respondent State submits that it is the Manish Shahu, who was having previous enmity with the relatives of the deceased and the applicant is the main accused with whom the alleged incident of assault happened on the fateful day. He submits that the deceased has specifically taken the name of present applicant in dying declaration, therefore, there is sufficient material against the present applicant to connect him with the crime. He submits that offence is of serious in nature and considering the gravity of offence, the applicant is not entitled to be released on bail, therefore, the bail application deserve to be rejected.

6. Perusal of the charge-sheet goes to show that the deceased made dying declaration to his father that Manish Shahu and other co-accused assaulted him. There is statement of eye witness stating that when the deceased and witness started to proceed on motorbike, the applicant along with 3 to 4 persons came and intercepted them. He was threatened by the applicant. The applicant started beating to the deceased by his hand.

7. Nowhere it is the case of the prosecution that the knife blow was given by the present applicant. The role assigned to the present applicant that he beat the deceased by hand. Even no knife or

blood stained clothes are recovered at the instance of present applicant; rather the accused Tushar and Sunil at whose instance knives and blood stained clothes were recovered, are already released on bail.

8. The applicant is arrested on 21/07/2021, since then he is behind the bar. The charge-sheet is already filed. The applicant has fixed place of abode. There is no likelihood that the applicant will flee away from justice. Considering the material against the present applicant and the fact that Tushar and Sunil at whose instance the knives and blood stained clothes were recovered, are already released on bail vide order dated 15/06/2023. In my view the discretion of grant of bail can be exercised in favour of the applicant. Hence the following order :-

ORDER

(a) The application is allowed.

(b) The applicant, namely, **Manish Kamal Shahu** in connection with Crime No.481/2021 registered with Police Station Yashodhara Nagar, District Nagpur shall be released on bail on executing PR. bond of **Rs.30,000/-** (Rupees Thirty Thousand only) with one solvent surety in the like amount.

(c) The applicant shall not leave the jurisdiction of Yashodhara Nagar Police Station.

(d) The applicant shall attend the Yashodhara Nagar Police Station on every Monday between 10.00 am. to 01.00 pm. till conclusion of trial.

(e) The applicant shall not induce, pressurize and threaten any witnesses who are connected with the alleged crime and he shall not contact the witnesses in any manner.

(f) The applicant shall furnish his cellphone number and address with address proof and additionally he shall furnish names of his two relatives along with their address-proof before the Court.

(g) In case of breach of any conditions, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

(h) The observations made herein are prima facie. The trial Court shall not get influenced by the observations made in this order.

Application is disposed of.

[M. W. CHANDWANI J.]