



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.637 OF 2023

(Mukul Chintamanji Khadse Vs. 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

Shri D.N. Mehta, Advocate for the applicant.
Shri M.J. Khan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 18, 2023.

Heard.

2. Present application is for grant of bail filed under Section 439 of the Code of Criminal Procedure in connection with Crime No.211 of 2023 registered at police station Sadar, Nagpur City for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

3. The applicant is arrested on 06th May, 2023. The accusation against the present applicant is that the informant is residing in his ancestral home and also running the ancestral business. The co-accused Sumit Digambar Wagh is the nephew of the informant and there is previous family dispute between them as to the share in the ancestral property.

4. As per the allegation, on 6th May, 2023 at about 1:30 at night when the complainant and his wife

were sleeping at home, he heard the noise of his nephew Sumit Wagh, therefore, they woke up and opened the door. It is alleged that his nephew Sumit along with his three friends had come to their house and there was hot exchange of words between them. The injured – wife of the informant intervened in the quarrel but the co-accused Sumit hold her hands and another co-accused pierce the knife blow in her abdominal portion due to which she sustained the grievous injury. Immediately, she was shifted to the hospital due to which she survived.

5. As per the contention of the present applicant, he is falsely implicated in the alleged offence. None of the witnesses shows his involvement in the alleged crime. Now investigation is completed and charge-sheet is filed. Considering the role as it is alleged in the report and the statement of the witnesses it is only to the extent of accompanying the co-accused Sumit Wagh and taking participation in hot exchange of words. There is no allegation that either he was carrying any weapon or he has given any blow or assault either on the informant or on the injures. Now investigation is completed and charge-sheet is filed. His further custody is not required, and therefore, he be released on bail.

6. Said application is strongly opposed by the State on the ground that present applicant along with the co-accused in furtherance of their common intention came at the house of the injured and assaulted her. The co-

accused has given forceful blow on the abdominal portion of the injured. She was timely treated, and therefore, she survived from the said injuries. Considering the nature of the allegation, the application deserves to be rejected.

7. Heard learned Counsel for the applicant and learned Additional Public Prosecutor for the State.

8. Perused the investigation papers. From the investigation papers, it reveals that admittedly, the name of the present applicant is not mentioned in the FIR. During investigation, the name of the present applicant is revealed. As far as the role of the present applicant is concerned, admittedly it is only to the extent that he was alongwith the co-accused Sumit Wagh and participated in the quarrel. There is allegation that he has manhandled the injured. No overt act is attributed to the present applicant. Now, investigation is completed and charge-sheet is filed. Considering the role of the present applicant, bail application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The applicant - Mukul Chintamanji Khadse in Crime No.211 of 2023 registered at police station Sadar, Nagpur City for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, be

released on bail on executing P.R. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(iv) The applicant shall furnish his Cell-phone number and address with address proof, before the Investigating Officer.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*