

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

CRIMINAL APPLICATION (APPP) NO. 1047/2023 IN
CRIMINAL APPLICATION (BA) NO. 545/2023

S.K. JAMIL SK BABBU AND ANOTHER
VS
STATE OF MAH. THR. PSO, PS FREZARPURA AMRAVATI,
TQ. AND DIST. AMRAVATI

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

Court's or Judge's Order

Mr VR. Deshpande, counsel for the applicants.

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

Mr Abdul Subhan, counsel assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/07/2023.

1. Heard.
2. Present application is filed under Section 301 (2) of the Code of Criminal Procedure for seeking permission to assist the public prosecutor. The said application is filed on behalf of the informant, who is intending to oppose the bail application.
3. Considering the reason mentioned in the application, learned counsel appearing for the informant is permitted to assist the prosecution.

Criminal Application is disposed of.

Criminal Application (BA) No. 545/2023

1. Heard.
2. The present application is filed by the applicants for grant of bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No. 303/2023 registered at Frezarpura Police Station District Amravati for the offences punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal Code. The applicants are arrested on 20/04/2023.
3. The crime is registered on the basis of report lodged by one Akhil Khan Wazir Khan at Frezarpura Police Station on an allegation that on 26/04/2023, he had been to Rajura Naka for dropping the passengers. At the relevant time, he has halted his vehicle in front of Pan Shop. At that time, the accused namely Sheikh Jamil Sheikh Babbu, Sheikh Bablu Sheikh Babbu and Sheikh Golu Sheikh Babbu and Rajja came near his auto-rickshaw and there were hot exchange of words between them. At the relevant time, present applicants abused him and assaulted him by means of stick. He further alleged that after hearing the shouts, his brother Kadir Khan Vajir Khan and his friends also arrived their, and one assailant namely Sheikh Golu Sheikh Babbu gave a blow of iron pipe on the person of his brother

Kadir Khan Vazir Khan. Due to which, he has sustained the injury on the basis of said report against the present applicant and other co-accused.

4. As per the contention of the present applicants that alleged incident is occurred which is result of sudden fight and sudden quarrel, only role is attributed to the present applicant No.1 is that, he assaulted the informant by means of stick. The informant has sustained simple injury and now he is discharged from the hospital.

5. As far as the role regarding the assault by road is concerned, it is attributed to the other accused. As far as the allegation against the applicant No.2 is concerned, general allegations are made against him. Now, practically investigation is completed. The stick i.e. weapon which was used in the crime is already recovered. Thus, further custody of the present applicant is not required and hence he be released on bail.

6. Learned APP strongly opposed the present application on the ground that investigation is still in progress. The informant has sustained the grievous injuries. The role is attributed to the present applicant is that he has assaulted the informant by means of stick. The other injured, Kadir Khan has received the grievous

injury. Considering the circumstances in which, the alleged incident has taken place, hence application deserves to be rejected as investigation is in progress.

7. Heard learned counsel Mr V.R.Deshpande for the applicants he reiterated the submissions and submitted that considering that informant has not received grievous injury and stick which was used in the commission of the crime is already recovered. Further custodial interrogation of the applicant is not required, considering the same, applicants be released on bail.

8. Learned APP and learned counsel for the informant has strongly opposed the application on the ground that investigation is still in progress, further custodial interrogation of the applicant is required. Considering the circumstances, in which the alleged incident has taken place, application deserves to be rejected.

9. Having heard both the sides and on perusal of the investigation papers, it reveals that admittedly the alleged incident has taken place in a sudden fight and sudden quarrel. The role attributed to the applicant No.1 is that he has assaulted the informant by means of stick. The injury certificate of the informant is on record which shows that the informant has received the lacerated wound 3 cm x 1 cm on a forehead. He has

already discharged from the hospital. As far as the grievous injury which are sustained by the injured witness Kadir Khan is concerned, which is attributed to the other accused Sheikh Golu Sheikh Babbu. Considering that the stick is already recovered and the injured is already discharged from the hospital, further custody of the present applicant No.1 is not required. As far as the applicant No.2 is concerned, general allegations that he has assaulted by feast and kick blows is levelled against him. Thus, nothing is to be recovered from the present applicant. For the considerable period, the applicants are behind the bar.

10. From the investigation papers, it reveals that practically investigation is completed. Considering the role attributed to the present applicant their further custody is not required. Therefore, application deserves to be allowed. Accordingly, I proceed to pass following order.

- a) Criminal Application is allowed.
- b) The applicants are released on bail in connection with Crime No. 303/2023 registered at Police Station Frezarpura, Tq and District Amravati for the offences punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal

Code on executing P.R. Bond of Rs. 25,000/- each of the applicants with one solvent surety of the like amount.

- c) The applicants shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.
- d) The applicants shall furnish their cell phone numbers with address along with address proof.
- e) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

JUDGE