



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

CRIMINAL APPLICATION (BA) NO. 800 OF 2023

Moen @ Golu Ansari s/o Mohd. Ansari .vs. State of Maharashtra, Through Police
Station Nandanvan, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.R. Rawlani, Advocate for Applicant,
Mr. A.M. Kadukar, APP for Non-Applicant-State.

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CORAM : M.W. CHANDWANI, J.
DATED : 07/10/2023.

1. By the present application, the applicant is seeking bail in Crime No.119/2013 for offences punishable under Sections 307, 353, 332 read with Section 34 of the Indian Penal Code read with Sections 3, 4 and Section 25 of the Indian Arms Act.

2. The offence is registered at the instance of Police Constable Battulal Ramlotan Pande, on the allegation that he received information about the incident of shooting at Imamwada Police Station, during the patrolling, the assailants had fled away on the motorcycle. Therefore, the complainant along with other police officials went for patrolling. They noticed that three persons on one motorcycle in suspicious condition were proceeding towards slum area of Nandanvan. When the complainant tried to stop them, all three persons fell down from the motorcycle. The police apprehended a person, out of three. However, other persons fired bullets towards the complainant in

which ultimately the applicant sustained bullet injury and other two persons succeeded in fleeing away. Later on, the other co-accused were arrested. On the complaint of the complainant, the offences came to be registered against the accused.

3. Heard learned counsel for the applicant and learned Additional Public Prosecutor for the respondent/State. I have gone through the charge-sheet.

4. It is the contention of the learned counsel for the applicant that the applicant is in jail since more than 10 years and at a pre-trial stage, the applicant has been acquitted in a case where the provisions of Maharashtra Control of Organized Crime Act, 1999 ("MCOC Act" for short) were attracted. According to the learned counsel for the applicant that the applicant is in jail in this crime since 20.04.2013 and by applying the provisions of Section 436-A of the Code of Criminal Procedure (Cr.P.C.), the applicant can be released on bail. He further submits that as per Section 57 of the Indian Penal Code, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years. The applicant has already undergone half of the sentence of imprisonment of 20 years.

5. The learned APP for the State has vehemently opposed the bail on the ground that there is *prima facie* involvement of the present applicant. He fairly submits that he has already undergone more than

half of the sentence of imprisonment for the offence punishable under Section 307 of the Indian Penal Code charged against the applicant.

6. It is a matter of record that the applicant has been arrested on 20.04.2013. It is almost more than ten years the applicant is behind bars. Section 436-A of the Cr.P.C. prescribes that where a person, during the period of investigation, inquiry or trial of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) has undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released on bail. Not only this, the role of shooting fire bullet from the gun is not assigned to the present applicant. Considering the aforesaid material, the case is made out for exercising discretion in favour of the applicant on certain stringent conditions. Hence, I pass the following order:

ORDER

(i) The applicant – Moen @ Golu Ansari s/o Mohd. Ansari be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Fifty thousand only) with one surety in the like amount in Crime No.119/2013 registered with Police Station Nandanvan, Nagpur, for offences punishable under Sections 307, 353, 332 read with Section 34 of the Indian Penal Code read with Sections 3, 4 and 25 of the Arms Act.

(ii) The applicant shall, at the time of execution of bond, furnish his address with telephone/mobile number (s) to the Investigating Officer and the Court concerned and shall not change residence without permission of the Court.

(iii) The applicant shall attend the Court on every date and cooperate to complete the trial, unless exempted.

(iv) The applicant shall not induce, give threat and pressurize any witnesses, who are connected with the alleged crime.

(v) The applicant shall maintain the law and order.

The application is allowed in the aforesaid terms.

(M.W. CHANDWANI, J.)