



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

CRIMINAL APPLICATION (BA) NO.938 OF 2023
(Shankar s/o Madhukar Bhagat 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

Mr. P.S. Chawhan, Advocate for the applicant.
Ms. M. Kavimandan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 05, 2023.

Heard.

2. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.61/2023, registered with Police Station Butibori, Nagpur for the offence punishable under Sections 307 of the Indian Penal Code.

3. The applicant was arrested on 03/02/2023. Since then he is in jail.

4. The accusation against the present applicant is on the basis of report lodged by his wife Nisha Shankar Bhagat on an allegation that on 03/02/2023 at about 3.00 p.m. the applicant was quarrelling with his wife on account of monetary issues. At the relevant time, injured has intervened in the said quarrel to resolve the matter, but the applicant has lost control and gave a blow of spade on the back side of head of the injured who is his father. On the basis of said report, police have registered the crime against the present applicant.

5. Learned Counsel for the applicant submitted

that the relationship between the applicant and the informant is admitted. The report is lodged by the wife of the present applicant. All the witnesses are the family members. Out of sudden quarrel, the alleged incident has taken place. In fact, there was no intention as to assault the injured who is the father of the present applicant. In sudden quarrel, alleged incident has taken place. He further submitted that the injured is discharged from the hospital and now he is not under the threat of death. Considering the investigation is completed and the charge-sheet is filed, further custody of the present applicant is not required. In view of that he be released on bail.

6. Learned Additional Public Prosecutor strongly opposed the application mainly on the ground that all the witnesses are the family members, if the applicant is released on bail, he will tamper the prosecution witnesses and prays for rejection of the application.

7. Having heard learned Counsel for the applicant and learned Additional Public Prosecutor for the State. Perused the FIR and other investigation papers. There is no dispute as far as the relationship is concerned. Injured is the father of the present applicant. When injured intervened in the quarrel of husband and wife, the applicant became furious and gave a blow of spade in a fit of anger. Now injured is out of danger and not having the apprehension of death.

8. Considering the investigation is completed and the charge-sheet is filed. No purpose will be served

by keeping the applicant behind bar. At the same time, the apprehension raised by the State cannot be ruled out. In view of that the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
 - (ii) The applicant - Shankar s/o Madhukar Bhagat in connection with Crime No.61/2023 registered with Police Station Butibori, Nagpur for the offence punishable under Sections 307 of the Indian Penal Code, be released on bail on executing PR. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
 - (iii) The applicant shall furnish his cellphone number and address of his residence.
 - (iv) The applicant shall not stay along with the injured and the other prosecution witnesses till the evidence of material witnesses is recorded before the trial Court.
 - (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)