



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

CRIMINAL APPLICATION (BA) NO.956 OF 2023

Nikhil Vasudev Balpande

Vs.

State of Maharashtra, Through Police Station Officer, Sindhi (Railway),
District Wardha

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

Court's or Judge's orders

Mr. S. M. Khan, Advocate for applicant.
Mr. Nikhil Joshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/12/2023

1. The application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.137/2023 registered with Police Station Sindhi (Railway), District Wardha for the offence punishable under Sections 307, 120-B and 201 read with Section 34 of the Indian Penal Code. The applicant is arrested on 18.05.2023 since then he is in jail.

2. The accusation against the present applicant is on the basis of report lodged by Surekha Mukinda Gaidhane on an allegation that the injured was residing at her house, as he was having some dispute with his family members. On 15.05.2023 at about 9.00 p.m., she along with her husband and the injured were sleeping in the house. At about 4.30 a.m., somebody has called her husband Mukinda Gaidhane, disclosing that somebody

has assaulting the injured. She immediately woke up and saw that the injured was not at his place where usually he used to sleep. She went outside the house and saw that two persons were assaulting the injured by means of weapon like similar to the knife. The assailants have covered their faces. In the said incident, injured Sachin has sustained the grievous injuries. Thereafter, he was shifted to the hospital.

3. During the treatment, the statement of the injured was recorded, wherein injured has disclosed the name of the husband of the informant as an assailant and one more person namely Roshan Gaidhane. He further alleged that along with these two persons, two unknown persons have given blow of knife on his neck. During identification parade present applicant was identified by the injured.

4. Learned Counsel for the applicant submitted that the persons who have assaulted the injured have covered their faces. Informant has not narrated any description, even injured has not narrated any description of the assailants. Present applicant is implicated merely on the basis of the statement of co-accused. Now, investigation is completed and charge-sheet is filed. The injured is already discharged from the hospital and now, he is not under the threat of death. Considering all these aspects, the applicant be released on bail by imposing certain conditions.

5. The learned APP strongly opposed the application on the ground that present applicant along with the other co-accused have hatched the conspiracy and assault was with intention to eliminate the injured. The husband of the informant is also involved in the assault. Injured has sustained the grievous injury which was in the nature of life threatening. Considering all these aspects, the application deserves to be rejected.

6. Having heard learned Counsel for the applicant. Perused the investigation papers. Admittedly, FIR is lodged against the unknown persons. After the injured was hospitalized, his statement was recorded. From which the names of the co-accused Mukinda Gaidhane and Roshan Gaidhane are revealed. The two persons were arrested and two unknown persons according to the injured were arrested. Their names are revealed as Nikhil Balpande and Kumar Udhawani. They were put in identification parade. The injured has identified them. Thus, unknown persons' identity is also revealed from the identification parade. Admittedly, the injured has sustained the grievous injury on the vital part like neck. But considering that now investigation is completed and charge-sheet is filed and the injured is not under the threat of death. He is already discharged from the hospital. In view of that, application of the present applicant requires to be considered by imposing certain conditions on him. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Nikhil Vasudev Balpande** be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.137/2023 registered with Police Station Sindhi (Railway), District Wardha for the offence punishable under Sections 307, 120-B and 201 read with Section 34 of the Indian Penal Code.
- (iii) The applicant shall not enter into the vicinity of village Sindhi (Railway), till conclusion of the trial.
- (iv) The applicant shall furnish his residential address where he proposes to reside after his release on bail and shall furnish his cell phone number.
- (v) The applicant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.)