



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

CRIMINAL APPLICATION (BA) NO.1042 OF 2023
(Naushad s/o Shaukat Ali Sayyed 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. A.M. Jaltare, Advocate for the applicant.
Mr. S.S. Hulke, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 07, 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.730/2021, registered with Police Station Wardha (City), District Wardha for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code and Sections 4/25 and 27 of the Arms Act, 1951.

3. The applicant is arrested on 10th July, 2021.

4. Learned Counsel for the applicant submitted that prior to lodging of the said First Information Report the co-accused Sagar Zade had lodged the report with the Wardha City police station with Crime No.729/2021 alleging that he and other co-accused Asif @ Motya and Immu @ Irfan Pathan have sustained the injuries as they were assaulted by the informant and his companion. He submitted that cross complaint is filed against the present applicant alleging that in the said incident, injured Rahul

has sustained the injury on his abdomen as he was assaulted by Asif @ Motya and Immu @ Irfan Pathan. The injuries sustained by the injured was stab injury on his abdomen 3 x 1 cm.

5. Learned Counsel submitted that from the recitals of the both the FIR's, it appears that due to the previous dispute between them, both the informant as well as his companion and the present accused persons have sustained the injuries. It was a free fight between the two parties. Both party members were holding deadly weapons like knife and sword. He further submitted that as far as the present applicant is concerned, it is alleged that all the accused that is Asif @ Motya, Immu @ Irfan Khan Pathan and Naushad i.e. the present applicant assaulted by means of knife and sword to injured Ravi and Rahul. He submitted that in the said incident two persons i.e. Ravi and Rahul as well as Irfan and Sagar both have sustained the injuries.

6. Now, investigation is completed and charge-sheet is filed. The injured is already discharged from the hospital. Now there is no apprehension regarding the anticipation of the death due to the said injuries. Considering the same, the applicant be released on bail.

7. Said application is strongly opposed by the State on the ground that this applicant has caused the grievous injuries to the injured, if applicant/accused is released on bail he will temper with the prosecution evidence.

8. Having heard the learned Counsel for the applicant and learned Additional Public Prosecutor for the State. On perusal of the investigation papers and the recitals of the FIR, there is no dispute that counter cases are registered against each other. It was a free fight in between the accused persons and the informant and his companion. Four persons are injured in the incident. Admittedly, Ravi has sustained the grievous injuries, now he is discharged from the hospital and the injuries was not the life threatening injuries. Injuries sustained by the Irfan and the Sagar are simple in nature.

9. Considering that the injuries are caused to the witnesses as well as the accused persons are during the scuffle between them and now the investigation is completed, no purpose would be served by keeping the present applicant behind bar. His prayer for grant of bail deserves to be allowed.

10. Learned Additional Public Prosecutor pointed out that the criminal antecedents are against the present applicant and filed on record the chart. On perusal of the charge, it shows that several offences are registered against the present applicant. One is the preventive action taken against the present applicant. Only one offence is registered under Section 324, 427 read with Section 34 of the Indian Penal Code. Merely because some crimes are registered against the present applicant, his liberty cannot be curtailed, however this aspect can be taken into consideration while releasing the present applicant on bail

by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Naushad s/o Shaukat Ali Sayyed in connection with Crime No.730/2021, registered with Police Station Wardha (City), District Wardha for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code and Sections 4/25 and 27 of the Arms Act, 1951, be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend concerned police station as and when called by the Investigating Officer for the investigation purpose.

(iv) The applicant shall furnish his Cell phone number and address with address proof.

(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.

(vi) On breach of any of the conditions, the bail granted to the present applicant deserves to be cancelled.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*