



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

CRIMINAL APPLICATION (BA) NO.1083 OF 2023

Dhiraj s/o Bhushan Funde

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Amgaon, District
Gondia

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

Court's or Judge's orders

Mr. N. R. Wasnik, Advocate for applicant.

Ms. Sneha Dhote, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 19/12/2023

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.175/2022 registered with Police Station, Amgaon, District Gondia for the offence punishable under Sections 394 and 397 read with Section 34 of the Indian Penal Code. The present applicant is arrested on 06.06.2022 and since then he is behind bar.

2. The accusation against the present applicant is on the basis of report lodged by Dhelendra Laxmichand Harinkhede on an allegation that on 05.06.2022 at about 10.00 p.m. he was proceeding on his motorcycle from Amgaon and when he reached Nangpura square, somebody has thrown chilli powder on his face because of which he lost the balance and fell

down. Thereafter, the applicant and another accused assaulted him with sticks and snatched the cash amount as well as his mobile phone, golden chain and committed the robbery. On the basis of said report, police have registered the crime against the present applicant as well as other co-accused.

3. Learned Counsel for the applicant submitted that as far as recovery is concerned from the present applicant, the amount of Rs.3000/- is recovered. He further submitted that the injury which is sustained and which is simple in nature is attributed to the other co-accused. Now, investigation is completed and charge-sheet is filed. Since the date of arrest i.e. from 06.06.2022 the present applicant is behind the bar. Trial will take its own time for final decision. Though there are criminal antecedents initially Crime Nos.91/2010 and 165/2022 are registered against the present applicant. From the Crime No.91/2010, he is already acquitted and in Crime No.165/2022 he is on bail. He further submitted that merely because some criminal antecedents are there, the liberty of the present applicant cannot be curtailed and prays for releasing the present applicant on bail.

4. Learned APP strongly opposed the application on the ground that there are criminal antecedents against the present applicant, if he is

released on bail, he will be involved in similar type of crime and could not be available for trial. She further submitted that considering the role attributed to the present applicant that he thrown chilli powder and thereafter, the informant was robbed by other co-accused. The application of the present applicant for grant of bail deserves to be rejected.

5. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. Admittedly, investigation is completed and charge-sheet is filed. From the scrutiny of the charge-sheet, it reveals that the amount of Rs.3000/- is seized from the present applicant. As far as the assault on the informant is concerned, that role is attributed to the co-accused i.e. accused No.2. Considering the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. Merely because there are criminal antecedents, the liberty of the present applicant cannot be curtailed. Moreover, it needs to be taken into consideration that in one crime the applicant is already acquitted and in another crime is already on bail. In view of that, I proceed to pass following order.

ORDER

- (i) The application is allowed.

(ii) The applicant **Dhiraj s/o Bhushan Funde** 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.175/2022 registered with Police Station Amgaon, District Gondia for the offence punishable under Sections 394 and 397 read with Section 34 of the Indian Penal Code.

(iii) The applicant shall attend the Police Station once in a month on Sunday between 10.00 a.m. to 1.00 p.m., till the culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.)