



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

CRIMINAL APPLICATION (BA) NO. 1072 OF 2023

Devendra s/o Purushottam Awari and another
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Chandrapur City
District Chandrapur

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

Court's or Judge's orders

Mr. A. C. Jaltare, Advocate for applicants.
Mr. N. R. Rode, APP for respondent /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/12/2023

1. By this application, the applicants are seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.658/2023 registered with Police Station, Chandrapur City, District Chandrapur for the offence punishable under Sections 323 and 326 read with Section 34 of the Indian Penal Code. The applicants are arrested on 15.10.2023.

2. Learned Counsel Mr. Jaltare for the applicants submitted that the accusation against the present applicants is on the basis of report lodged by Sanjay Ganpati Makode on an allegation that on 14.10.2023 at about 6.00 a.m. when the informant had been to his agricultural field, he received a phone call at about 6.00 p.m. of Narayan Adbale who informed him that the quarrel is going on at the house of Laxman Balki and Laxman has been assaulted by the applicant No.1

Devendra, applicant No.2 Purushottam, Sarita Balki and Suchita. It is further alleged that Devendara has assaulted Laxman by means of stick on his head and applicant No.2 Purushottam has assaulted by fist and kick blows. On the basis of said report, police have registered the crime against the present applicants. Learned Counsel Mr. Jaltare submitted that as far as the applicant No.1 is concerned, he is not pressing this application, but the role of the applicant No.2 is similar to the two ladies who are already released on bail by this Court in the event of their arrest. He further submitted that as far as the allegation against the applicant No.2 is concerned, which is in the nature of assault by fist and kick blows. Since the date of arrest, he is behind bar. His further incarceration is not required and hence, he be released on bail.

3. Learned APP strongly opposed the application on the ground that the injured is seen under treatment and his statement is not recorded as he is in unconscious condition. Considering that the present applicants have assaulted the injured in furtherance of their common intention, the application deserves to be rejected.

4. Having heard the learned Counsel for the applicant and on perusal of the investigation papers, it reveals that only allegation against the applicant No.2 is that he has assaulted by fist and kick blows. The two ladies against whom the similar allegation is levelled are already released on anticipatory bail. As far as the major

injuries sustained by the injured is concerned, which is attributed to the applicant No.1 and application for applicant No.1 already not pressed by the learned Counsel for the applicants. Considering the same, application deserves to be allowed partly. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed partly.
- (ii) The applicant No.(2) Purushottam s/o Maroti Awari be released on bail in connection with Crime No.658/2023 registered with Police Station Chandrapur city, District Chandrapur for the offence punishable under Sections 323 and 326 read with Section 34 of the of the Indian Penal Code on executing PR bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- (iii) The applicant No.2 shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- (iv) The prayer of the applicant No.1 is not pressed, hence to that extent the application of applicant No.1 is disposed of.

(URMILA JOSHI-PHALKE, J.)