



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

CRIMINAL APPLICATION (BA) NO.1104 OF 2023

Krushik @ Sonu Gautam Bansode

Vs.

State of Maharashtra, Through Police Station, Ramdaspath, Akola

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

Court's or Judge's orders

Mr. V. R. Deshpande, Advocate for applicant.

Mr. N. R. Rode, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 19/12/2023

1. By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.226/2023 registered with Police Station, Ramdaspath, Akola for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The applicant is arrested on 12.06.2023.

2. The accusation against the present applicant is on the basis of report lodged by A.P.I. Jitesh Manohar Kanpure. As per his allegation on 12.06.2023 at about 1.10 a.m. he was on patrolling duty, at the relevant time one unknown person informed him that at Gate No.2 of Akola Railway Station scuffle is going on. He immediately went at the said place in front of the President Hotel and witnessed that one person is lying in

injured condition in a pool of blood and another person was holding knife in his hand and was assaulting the injured person by kicks. He immediately caught hold the person, who was holding knife in his hand, who has disclosed his name as Rahul Onkar Tripathi. After inquiry, with the said Rahul Tripathi it revealed to him that he along with the other co-accused assaulted the injured and caused his death. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Ved Deshpande for the applicant submitted that as far as the prosecution case is concerned, only role attributed to the present applicant is that he was present along with the co-accused and handed over the knife by which the co-accused has given a blow on the person of the deceased. Now, investigation is completed and charge-sheet is filed. The applicant is behind bar since the date of arrest. Considering the role of the present applicant, his further incarceration is not required and hence he be released on bail.

4. The said application is strongly opposed by the State. Learned APP submitted that present applicant was having knowledge that the co-accused can use the said knife and cause the grievous injury to the deceased. Thus, the offence committed by the present applicant in furtherance of common intention shared with the

co-accused. The present applicant is identified by one of the eye witness. Though investigation is completed and charge-sheet is filed considering the role of the present applicant, the bail application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and after perusal of the investigation papers, it reveals that when the informant has visited the alleged spot of incident, he has only caught the co-accused namely, Rahul Onkar Tripathi. The injured and co-accused Rahul Tripathi were witnessed by the informant and said co-accused was holding knife in his hand. As per the recitals of the FIR, on the basis of statement made by the co-accused, the name of the present applicant is revealed. During investigation, the Investigating Officer has recorded various statements of the witnesses including the statement of the eye witnesses. The statement of the eye witness namely, Santosh Bhima Pawar shows that he has witnessed that deceased was assaulted by the co-accused Rahul @ Sonu Tripathi by dragging him and other three persons who were along with him. As far as the allegation against the other three persons is concerned, is to the extent of fist and kick blows. The statement of another eye witness Akash Suresh Gaikwad @ Dani is also recorded on 18.07.2023. As per his statement, on 11.6.2022 at about 10.00 to 10.30 p.m. he had been to answer the nature's call near the railway track. At the relevant time, he met

one Sunil Khillare and there was a quarrel between him and Sunil Khillare and said quarrel was intervened by the deceased Anil Ratal and Anil Gudadhe. Thereafter, he along with Anil Ratal and Anil Gudadhe proceeded on their motorcycle towards the Nagpur. At the relevant time, Anil Ratal has received the phone call and they proceeded towards the Janta Bazar. Thereafter, they again went to the Railway Station, when he was sitting in the hotel, he heard the noise of quarrel outside the hotel, thereafter he has witnessed that Anil Ratal was assaulted by the Rahul Tripathi and three persons including the present applicant. He further stated that at the relevant time, Rahul Tripathi has thrown key towards the Abhishek, Abhishek has removed the knife from the Dikki of the two wheeler and handed over to the present applicant and present applicant has handed over to the Rahul Tripathi. Thus, the allegation against the present applicant is that he has handed over the said knife to the co-accused and co-accused has given a blow by the said knife on the person of the deceased. Deceased has sustained two stab injuries and other injuries are in the nature of laceration. Death of the deceased is Hypovolumic shock due to stab injury. Admittedly, the stab injury is not attributed to the present applicant. At the most, the common intention can be attributed to the present applicant. Now, the investigation is completed and charge-sheet is filed. Considering the role of the present applicant and further incarceration of the present

applicant is not required. In view of that, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Krushik @ Sonu Gautam Bansode** be released on bail in connection with Crime No.226/2023 registered with Police Station, Ramdaspath, Akola for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.30,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into Akola city except attending the trial on the scheduled dates and shall not in any manner communicate with any of the witnesses.
- (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.)