



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

CRIMINAL APPLICATION (BA) NO.31 OF 2024

(Ajay @Ajju s/o Omkar Turkar Vs. The State of Maharashtra thr. PSO PS Ravanwadi,
Tq. & Dist. Gondia)

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

Court's or Judge's orders.

Mr. A. S. Manohar, Advocate for Applicant.
Mrs. Ritu V. Sharma, APP for Non-Applciant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 27th MARCH, 2024.

Heard.

2. The applicant came to be arrested on 19.09.2023 in connection with Crime No.281/2023 registered at Police Station Rawanwadi, District Gondia for the offence punishable under Sections 143, 144, 147, 148, 302, 364, 386, 341, 323, 504 and 506 read with Section 149 of the Indian Penal Code.

3. The accusation against the present applicant is on the basis of report lodged by one Sandip Madanlal Thakrale, who alleged in the FIR that Kishor Rathod who was his neighbour was engaged in selling fake gold ornaments. On 17.09.2023 the informant along with the deceased Kishor had gone to Om Hardware belonging to the co-accused Om Chaudhari. Deceased Kishor Rathod had finalized a deal of selling of golden chandelier (the golden

ear rings) to Om Chaudhari worth of Rs.1,50,000/-. On 18.09.2023 at about 02:00 p.m., the informant, one Badal Neware and Kankar Lilhare met the deceased Kishor Rathod. They all went on motorbike towards Dangorli. When they reached at Dangorli near bus stop, they met one Devdip Jaitwar. It is further alleged that Om Chaudhari came there along with the other accused including the present applicant when the informant and Devdip Jaitwar were waiting under a tree and deceased Kishor Rathod went away for a while. Thereafter, they started back towards Gondia. Around 03:00 p.m. near Dangorli bus stop four persons on a motorbike accosted the informant, Kishor and Devdip Jaitwar and restrained them. It is alleged that they kicked the motorbike and caused them to fall. Thereafter they were assaulted. It is further alleged that the present applicant demanded amount from Devdip Jaitwar and thereafter obtained his ATM Card, thereafter they pushed him to ATM and insisted him to withdraw the amount and obtained the said amount from him. It is further alleged that the present applicant along with the other co-accused assaulted him as well as the deceased and due to the said assault deceased Kishor Rathod died. On the basis of said report police have registered the crime against the present applicant and the other co-accused.

4. The learned counsel Mr. Manohar submitted that considering the recitals of the FIR, only allegations against the present applicant is that he took said Devdip

Jaitwar on the motorbike and insisted him to withdraw the amount and obtained the said amount. He further submitted that as far as the allegation of the assault is concerned it is a general allegation now the applicant is already arrested and behind bar since the date of arrest, investigation is completed, charge-sheet is filed the other co-accused are already released on anticipatory bail by this Court considering the role attributed to the present applicant his further incarceration is not required and he be released on bail.

5. The learned APP strongly opposed the said application on the ground that the applicant and other co-accused have formed an unlawful assembly and in furtherance of their common object they have assaulted the deceased as well as the other prosecution witnesses in the said incident the death of Kishor Rathod has occurred. Considering the seriousness of the crime and the gravity of the offence, the application deserves to be rejected. She further submitted that there are criminal antecedents against the present applicant in view of that the application deserves to be rejected.

6. Having heard the learned counsel for the applicant and learned APP for the State, perused the investigation papers. From the recitals of the FIR and the statement of Devdip Rajendrakumar Jaitwar recorded under Section 164 of the Code of Criminal Procedure.

The allegation made against the present applicant is that present applicant demanded money from him. Accordingly, he asked his Uncle to transfer the amount of Rs.5000/- in his account by way of Online trading. Thereafter present applicant and the other co-accused took him to Waraseoni at the ATM and insisted him to withdraw the amount and obtained the said amount. Thereafter, he was again brought in the agricultural field and was assaulted. Thus, considering the allegation which is only to the extent of the amount of Rs.5000/- was obtained from the Devdip Rajendrakumar Jaitwar by the present applicant and thereafter the general allegation is made against him that he along with the other co-accused assaulted the said Devdip Rajendrakumar Jaitwar. Considering the fact that the other co-accused Maheshkumar Chandanlal Patle and Pankaj Patle to whom also the role of assault by making a general statement was attributed are already released on anticipatory bail. Now the investigation is already completed, charge-sheet is filed. Considering the role attributed to the present applicant, his further incarceration is not required though criminal antecedents are there which are not sufficient to refuse him bail. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

[i] The application is allowed.

[ii] The applicant – Ajay @ Ajju s/o Omkar

Turkar shall be released on bail in connection with Crime No.281/2023 registered under Sections 143, 144, 147, 148, 302, 364, 386, 341, 323, 504 and 506 read with Section 149 of the Indian Penal Code on executing a P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

[iii] The applicant shall attend the concerned police station once in a month on every Sunday between 10:00 a.m. to 01:00 p.m. and the Investigating Officer shall record his presence till culmination of the trial.

[iv] The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

7. The application is disposed of.

JUDGE