



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

CRIMINAL APPLICATION (ABA) NO.42 OF 2024

Devrao s/o Bhaurao Hiwarale

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Gramin Khamgaon, District Buldhana

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

Court's or Judge's orders

Mr. Anil Mardikar, Senior Advocate a/b Mr. S. K. Wankhade, Advocate for
applicant.

Mr. A. R. Chutke, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2024

1. By this application, the applicant is seeking pre-arrest bail in the event of his arrest, in connection with Crime No.401/2023 registered with Police Station Khamgaon (Rural), District Buldhana for the offences punishable under Sections 143, 146, 147, 148, 325, 322, 353, 427 read with Section 149 of the Indian Penal Code, 1860 along with Section 135 of the Maharashtra Police Act and under Section 7 of the Criminal Law (Amendment) Act, 1932.

2. Learned Senior Counsel for the applicant submitted that the applicant is apprehending arrest at the hands of Police, as accusation against the present applicant is that two groups of two different communities gathered together and there was a scuffle between them. During that scuffle, they have

pelted stones towards each other and the Police Constables who were of Bandobast Duty, sustained the injuries and one of the witness has sustained the fracture injury. On the basis of said report, police have registered the crime against the present applicant. He further submitted that as far as the present applicant is concerned, the general allegation is made that he has pelted stones and also instigated the other people gathered to throw the stones towards the police constables. He further submitted that the co-accused is already released on bail, similar role is attributed to the present applicant. As far as the custodial interrogation is concerned, which is not required. In view of that, the applicant be protected by granting pre-arrest bail.

3. Learned APP strongly opposed the application on the ground that there are criminal antecedents against the present applicant. In view of that, application deserves to be rejected.

4. After hearing the learned counsel for the applicant and learned APP for the State, perused the investigation papers. The only allegation against the present applicant is that he has instigated the people who gathered to throw the stones and the general allegation of pelted stones is made against the present applicant. Admittedly, the custodial interrogation of the present applicant is not required, as nothing is to be recovered from him. The

co-accused is already released on pre-arrest bail to whom a similar role is attributed. In view of that, the present application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant - **Devrao s/o Bhaurao Hiwarale** in connection with Crime No.401/2023 registered with Police Station Khamgaon (Rural), District Buldhana for the offences punishable under Sections 143, 146, 147, 148, 325, 322, 353, 427 read with Section 149 of the Indian Penal Code, 1860 along with Section 135 of the Maharashtra Police Act and under Section 7 of the Criminal Law (Amendment) Act, 1932, be released on anticipatory bail on furnishing 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 as and when required for the investigation purpose and shall cooperate with the investigating agency.
- (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 and threat or promise to any person acquainted with the facts of the present case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)