



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

CRIMINAL APPLICATION (ABA) NO.63 OF 2024

Mohammad Usman @ Doctor S/o Mohammad Rabi Rayeen
Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Lakadganj, Nagpur

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

Court's or Judge's orders

Mr. A. K. Bhangde, Advocate for applicant.
Mrs. M. A. Barabde, APP for respondent/State.
Mr. R. R. Rajkarne, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/02/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.695/2023 registered with Police Station, Lakadganj, Nagpur for the offences punishable under Sections 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Mohammad Ayub Taj Mohammad on an allegation that the present applicant is related to him and residing in his neighbourhood. There is a previous dispute between his family and the family of the present applicant. On 15.12.2023 present applicant was abusing the informant and his father. After some

time, the father of the informant enquired, why he abusing them, on that, the present applicant gave a blow of iron rod on the head of the informant, due to which he sustained the injury. The son of the present applicant has also assaulted the father of the informant. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Bhangde, for the applicant submitted that counter FIRs are registered against each other regarding the said incident. The FIR lodged by the wife of the present applicant on the basis of which Crime No.696/2023 was registered. He further submitted that present applicant has also sustained the injury in the said incident, as he was assaulted by the present informant and his family members. He submitted that the informant is discharged from the hospital immediately on the same day. It seems that he has sustained the simple injury. The applicant was also in injured condition when he approached the Police Station. Considering that the informant and his family members were aggressors and have initiated the quarrel and in the same incident while saving himself the injury might have sustained to the informant. As far as the investigation part is concerned, the custodial interrogation of the present applicant is not required and therefore, he be released on bail in the event of his arrest.

4. Learned APP strongly opposed the application on the ground that in all 17 offences are registered against the present applicant. There is continuous unlawful activities by the present applicant which shows that since 2013 to 2022 alleging the offence registered, the applicant is involved in a criminal activity. She further submitted that the informant has sustained the injury on his vital part and that is also due to the iron rod. The custodial interrogation of the present applicant is required for the purpose of seizure of the article as well as the for the interrogation purpose. Considering the nature of the offence for which the punishment of minimum imprisonment of ten years which may extend up to life is provided. Considering all these aspects, the application deserves to be rejected. The learned Counsel for the informant has also endorsed the same contention.

5. After hearing both the sides and on perusal of the investigation papers. It reveals that scuffle took place between the two parties. Both have assaulted each other. It reveals from the investigation papers and the recitals of the FIR that the present applicant has used the iron rod and caused the injury to the injured i.e. the informant. The medical certificate is collected during the investigation which also shows that the injured has sustained the injury on the vital part like head.

6. Though learned Counsel placed reliance on the **Manoj Prabhakar Lohar Vs. State of Maharashtra** reported in **2009 ALL MR Cri. 2883** and submitted that though criminal antecedents are there this Court after considering the various judgments, released the applicant on bail. On perusal of the facts of the case which shows that there is the allegation against the applicant was about the threatening.

7. Here in the present case, the allegation is of a grievous nature. The present applicant has used the weapon like iron rod and caused the injury. The another incriminating circumstance which is brought on record by the learned APP that the crime chart of the present applicant which shows that in all 17 offences are registered against the present applicant which are grievous in nature. Not only the crime chart is filed by the learned APP, but the concerned FIRs are also placed on record which shows the present applicant is continuously involved in the criminal activities since 2013 to 2022. Considering the nature of the offences registered against the present applicant and his involvement in various crimes, no case is made out to grant the anticipatory bail. The consideration for grant of anticipatory bail is different than the grant of bail under Section 439 of the Code of Criminal Procedure. In view of that, the application for anticipatory bail deserves to be

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rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)