



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

CRIMINAL APPLICATION (BA) NO.205 OF 2024

(Gulam Barkat alias Barkat Hussain Gulam Yunus Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.N. Ali, Advocate for the applicant.
Mr. U.R. Phasate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 2, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 25/07/2023 in connection with Crime No.499/2023 registered with Police Station Balapur, District Akola for the offence punishable under Sections 307, 326, 323, 504 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by the Abdul Gufran @ Sajju Abdul Gafar alleging that present applicant Barkat and his two brothers are residing in his neighbourhood. Abdul Gufran alleged to have taken the loan of Rs.7 lakhs in the month of November 2022 from three brothers and in consideration of that amount, the agreement to sale was executed in favour of Gulam Hadi. It is alleged that time to time the said amount was returned to Gulam Hadi however, Rs.1,00,000/- was remained to be returned and same was demanded by

Gulam Hadi from him. The applicant was pressurising the informant to execute the sale-deed in favour of his brother. On that account, on 15/07/2023 at about 6:00 p.m. Gulam Hadi contacted the informant on his mobile and called him at Khamgaon Naka, Balapur. Therefore, informant reached there at about 7:00 p.m., at the relevant time he was assaulted by the present applicant and other co-accused. It is alleged that present applicant has given a blow of knife but the informant restrained the said blow by placing his hand in between and sustained the injury on his left hand. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the allegations are concerned, the applicant is falsely implicated due to the previous dispute between them. He invited my attention towards the another FIR which is lodged against the informant on the basis of report filed by Sheikh Naved Sheikh Rafiq. The said incident was also of the same date and the time of incident was 7:00 p.m. In the present FIR also the informant has narrated the similar time of the incident. He further submitted that as far as the injuries are concerned now the injured is already discharged from the hospital and there is no apprehension of death. Considering the investigation is completed, charge-sheet is filed, further incarceration of the present applicant is not required. Hence, he be released on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that on account of previous dispute, the present applicant has given a blow of knife and attempted to give a blow on his abdomen but fortunately the injured has sustained the injury on his hand, and therefore, the impact of the injury was of a less gravity. He further submitted that the knife is also recovered at the instance of the present applicant. Moreover, the injuries are also sustained by the injured on his stomach. Considering the circumstances under which the alleged incident has taken place, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and various statements of the witnesses. Perused the medical certificate also. The injured has sustained the injury on his hand as well as on his stomach. Now, injured is already discharged from the hospital. From the investigation papers it reveals that now there is no apprehension of death as the injured is already survived from the said injury. The nature of the injury sustained on the stomach is 4 x 1 x 3 centimetres. Thus, the injury is not a life threatening injury. Now, investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required but considering the circumstances under which alleged incident has taken place, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the

following order :

- (i) The application is allowed.
- (ii) The applicant – Gulam Barkat alias Barkat Hussain Gulam Yunus in connection with Crime No.499/2023 registered with Police Station Balapur, District Akola for the offence punishable under Sections 307, 326, 323, 504 read with Section 34 of the Indian Penal Code, be released on bail on his executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.
- (iii) The applicant shall not enter into the vicinity of village Balapur, District Akola till the 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.
- (v) The applicant shall attend the proceedings before the trial Court regularly without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)