



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

CRIMINAL APPLICATION (BA) NO.329 OF 2024

Sk. Ahmad Sk. Azad

Vs.

State of Maharashtra, Through Police Station Officer, Police Station Civil
Lines, District Akola

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

Court's or Judge's orders

Mr. U. J. Deshpande, Advocate for applicant.

Ms. Shamshi Haider, APP for respondent /State.

Mr. J. S. Duhilani, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/05/2024

1. The applicant came to be arrested on 21.11.2023 in connection with Crime No.418/2023 registered with Police Station Civil Lines, District Akola for the offences punishable under Sections 307, 326, 427, 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 injured informant who alleged that he is an auto rickshaw driver and drives his auto rickshaw near new bus stand, Akot file. On 10.11.2023 from 9.00 p.m. at night he was driving his auto rickshaw and plying the passengers at around 1.00 a.m. He came to new bus stand for plying the passengers, at that time the present applicant came from behind and hit

the applicant on his right leg with an iron pipe. After which the complainant allegedly fell down and after falling down when he saw the applicant and asked him as to why he was beaten, on that the applicant abused him and also gave a blow of his head, due to which he sustained the bleeding injury. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Deshpande for the applicant submitted that the cross-complaints are filed against each other about the said incident. The injured is now discharged from the hospital. He also invited my attention towards the application filed to the Superintendent of Police, Akola wherein various auto rickshaw drivers have signed the said application and alleged that the informant is also of a criminal background and demanding the extortion amount from various auto rickshaw drivers and files a false complaint against the various persons.

4. He further invited my attention towards the crime chart which shows that there are several offences registered against the present informant under Sections 324, 504 and submitted that the informant is also of a criminal background. He submitted that at the time of alleged incident, there was a scuffle between them and in that scuffle both have sustained the injuries. He submitted that now investigation is completed, charge-sheet is filed,

further custodial interrogation is not required, in view of that he be released on bail.

5. Learned APP and learned Counsel for the informant strongly opposed the said application on the ground that in the alleged incident the present applicant has assaulted the injured mercilessly, due to which the injured has sustained the grievous injuries. The photographs on record shows that the informant has sustained the fracture injuries. The injured was hospitalized for 27 days. It is further submitted that the several crimes are registered against the present applicant, as initially also the informant was assaulted by the present applicant. It is submitted that if the present applicant is released on bail, there is a possibility of similar types of the incident and therefore, the application deserves to be rejected.

6. Having heard the learned Counsel for the applicant and learned APP for the State and learned Counsel for the informant. Perused the recitals of the FIR, from which it reveals that the alleged incident has taken place in the intervening night of 10.11.2023 and 11.11.2023. From the investigation papers further it reveals that the several crimes are not only registered against the present applicant but also registered against the present informant also. The application filed by the various auto rickshaw drivers is also required to be taken into consideration,

which shows that the informant is having criminal background. On perusal of the injury certificate it shows that the informant has sustained one fracture injury and other injuries are simple in nature. Thereafter, he was shifted to the hospital and he was hospitalized. The discharge card shows that he has sustained the distal femur fracture. Now, he has discharged from the hospital and there is no apprehension of death. The investigation is already completed and charge-sheet is filed. Considering the various crimes registered against the present applicant as well as the informant, it appears that there is a previous enmity between the parties and to avoid the further incident, some conditions requires to be imposed on the present applicant. In view of that, I proceed to pass following order:

(i) The application is allowed.

(ii) The applicant **Sk. Ahmad Sk. Azad** shall be released on bail in connection with Crime No.418/2023 registered with Police Station Civil Lines, District Akola for the offences punishable under Sections 307, 326, 427, 504 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the Akola city till culmination of the trial, except attending the proceeding before the trial Court.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) Contravention of any of the terms and conditions would lead to the cancellation of the bail of the present applicant.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)