



(1)

30.ba.341.2024 - Corrected Order...

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

CRIMINAL APPLICATION (BA) NO. 341 OF 2024

The name of
Police Station is
corrected as per
the Hon'ble
Court's order
dated 26.08.2024

Abhay Dayaram Kumbhare
Vs.

State of Maharashtra, Through Police Station House Officer, Katol, Police
Station Katol, District Nagpur

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

Court's or Judge's orders

Mr. N. V. Kone, Advocate for applicant.
Mr. K. R. Lule, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/08/2024

1. The applicant came to be arrested on 29.10.2022 in connection with Crime No.804/2022 registered under Sections 307, 452, 504 and 506 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by Alokabai Shalik Mungbhate on an allegation that she is residing along with her family members. On 29.10.2022 at about 2.00 a.m. present applicant entered in her house by holding the axe in his hand to assault her grandson Purvesh. He was intervened by her daughter-in-law Jayshree and in that incident Jayshree has received the injury on her right hand as well as he has assaulted her on her right leg and therefore, she sustained the injuries. It was alleged that the present applicant also threatened her that he

(2)

30.ba.341.2024 - Corrected Order...

would kill the family members as his brother is behind bars due to the act of the informant. On the basis of the said report, police have registered the against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the injuries sustained by the injured are concerned, which are in the nature of the simple injury. On the same day, she was discharged from the hospital. Now investigation is already completed and charge-sheet is filed. There are no criminal antecedents against the present applicant. Considering investigation is completed and charge-sheet is filed and the applicant is behind bar since the date of his arrest i.e. from 30.10.2022 and there is no progress in the trial, the applicant be released on bail.

4. Learned APP strongly opposed the said application on the ground that the applicant entered into the house of the informant in the midnight with intention to kill her grandson. The act of the present applicant was restrained by the injured and she has sustained the injury in the said incident. Thus, considering in the manner in which the alleged incident has taken place, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the

investigation papers from which it reveals that the alleged incident has taken place due to the previous enmity. As far as the nature of the incident is concerned, it is not in dispute that present applicant entered into the house in the midnight at 2.00 a.m. and with intent to assault the grandson of the informant. However, the said act was restrained by the daughter-in-law of the informant and she has sustained the injuries. The injured has sustained the simple injury in the said incident. As far as the crush injury at the right elbow joint is concerned, which was suspected dislocation of right elbow joint, but no further investigation regarding the said injury is on record. As far as the investigation part is concerned, which is already completed, charge-sheet is already filed. Admittedly, there is no progress in the trial since the date of the arrest applicant. Considering the injured is not under the apprehension of death, as she has sustained the simple injury. Only apprehension raised by the prosecution is that there is likelihood of the tampering of the witnesses which can be taken care of by imposing certain conditions on the applicants. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Abhay Dayaram Kumbhare** shall be released on bail in connection with Crime No.804/2022 registered

(4)

30.ba.341.2024 - Corrected Order...

under Sections 307, 452, 504 and 506 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 village Parsodi, Taluka Katol, District Nagpur, till culmination of the trial.

(iv) The applicant shall attend the Nagpur City Police Station, twice in a month on 1st and 15th of every month and the Police Officer of the Nagpur City Police Station shall record his presence.

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

(vi) The applicant shall not leave the jurisdiction of the Nagpur City without prior permission of the Court.

(vii) The contravention of any of the conditions imposed on the present applicant would lead to cancellation of this bail.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)