



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

CRIMINAL APPLICATION (BA) NO. 446 OF 2024

Ravi Vasanta Waghmare V/s 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. J.S.Wankhade, counsel for applicant.

Mr. A.G. Mate, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/06/2024.

1. The applicant came to be arrested on 30/06/2022, in connection with crime No. 350/2022 registered with Police Station Pusad Rural, Tq. Pusad, District Yavatmal for the offences punishable under Sections 143, 147, 148, 307 read with Section 149 and under Sections 3, 25, and 4 of the Arms Act, 1959.

2. The accusation against the present applicant is on the basis of report lodged by the father of the injured Madhavrao Shamrao Haral, on an allegation that on 29/06/2022, his son namely Sachin Haral had been at Gunwantrao Deshmukh High School, Pusad to drop his wife for appearing in the examination. Within half an hour, he received a phone call from his daughter-in-law, who informed him that when they were proceeding to the said institution, three unknown persons came in front of them, one of them, fired a bullet towards her husband i.e. Sachin, but the said bullet could not hit, as Sachin ran away from

the said spot. At the relevant time, two unknown persons followed and chased him and gave a blow of knife on his back. Due to the said blow, Sachin sustained a grievous injuries and thereafter, said persons ran away from the spot and Sachin was shifted to the hospital. On the basis of said report, police have registered the crime against the unknown person. During investigation, the investigating officer has recorded the statement of the injured, wherein he disclosed that it was the present applicant who has given the blow of knife on his back, and the co-accused Aditya Ghate fired a bullet towards him, which could not hit him. On the basis of the said statement, the applicant was arraigned as an accused.

3. Learned counsel for the applicant submitted that as far as the role of the present applicant is concerned, he is falsely implicated in the alleged offence, as the blow was given from the backside, and there was no opportunity for the injured to see the present applicant. Merely on suspicion, the applicant is arrested. He submitted that now the investigation is completed and charge-sheet is filed, the previous bail application was withdrawn by the present applicant with liberty to file if the trial is not concluded within six months. There is no progress in the trial. He submitted Roznama on record, to show that as the applicant was not produced from the jail, the trial could not proceed. He further submitted that the applicant is a student, and due to his incarceration, his future completely ruined.

4. He further submitted that now the injured is not under the apprehension of death. He is discharged from the hospital. The alleged weapons are not recovered from the present applicant, considering all these aspects, further incarceration of the present applicant is not required. In view of that, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that there is a prima-facie material against the present applicant, as it was the present applicant who has given a blow of knife on the back of the injured. The statement of the injured specifically attributes the role of the present applicant. Now, the investigation is completed and charge-sheet is filed, if applicant/accused is released on bail, he would tamper with the prosecution evidence and therefore, application deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the other investigation papers. There is no dispute as to fact that, the injured has specifically attributed the role of the present applicant by stating that, he is the person who gave blow of knife on his back. The medical certificate which is on record shows that the injured has sustained the stab injury to his upper-back. Now, injured is discharged from the hospital and he is not under the apprehension of death, due to the said injury. I have also perused the Roznama which is filed on record, which shows that there is no progress in the trial. Initial bail application filed by the

present applicant is withdrawn by him with liberty to file fresh, if there is no substantial progress in the trial within six months.

7. Thus, considering above all aspects, admittedly specific role is attributed to the present applicant, but present applicant is behind bar since the date of his arrest i.e. 30/06/2022 approximately from two years. Now, the injured is also discharged from the hospital, and there is no apprehension of death to him. Though there was a direction regarding the progress of the trial to the trial Court. But due to the non-production of the accused, the trial could not proceed. The Hon'ble Apex Court recently considered the aspect of delay in trial in the case of ***Ankur Chaudhary Vs State of Madhya Pradesh in Special Leave to Appeal (Cri.) No.4648/2024 dated 28/05/2024*** and observed that, failure to conclude the trial within a reasonable time resulting in a prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created.

8. In view of the observation of the Hon'ble Apex Court and also in the present case, the trial was not concluded and the applicant is behind bar since last two years. The applicant is a student and there is no criminal antecedents against the applicant. Hence, application of the present applicant deserves to be allowed. Accordingly, I proceed to pass the following order:

- a) The applicant- Ravi Vasanta Waghmare shall be released on bail, in connection with crime No. 350/2022 registered with Police Station Pusad Rural, Tq. Pusad, District Yavatmal for the offences punishable under Sections 143, 147, 148, 307 read with Section 149 of the Indian Penal Code, 1860, and under Sections 3, 25, and 4 of the Arms Act, 1959, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case in any manner.
- c) The applicant shall attend the proceedings regularly before the learned trial Court without seeking exemption unless there are exceptional circumstances.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]