



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

CRIMINAL APPLICATION (BA) NO. 521 OF 2024

Himalay Rajesh Nimbalkar 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. R.K. Tiwari, counsel for the applicant.

Ms. Soniya Thakur, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 16/07/2024.

1. Heard.
2. The applicant came to be arrested on 22/08/2023, in connection with Crime No. 480/2021 registered with Police Station Tahsil, Nagpur for the offence punishable under Sections 302, 307 and 324 of the Indian Penal Code, 1860.
3. The accusation against the present applicant is on the basis of the statement of the injured, who alleged that he was staying on the footpath. On 05/06/2021, at about 12.30 to 01.00 a.m. when he was sleeping on the footpath, he woke up and saw that the fire has got him. At the relevant time, one Himalay was seen by him running from the said spot. On the basis of said report, police have registered the crime against one Himalay. During the investigation, the investigating officer has recorded the statement of the injured, wherein also he has only narrated the name of the assailant as Himalay, and alleged that he was set on fire by

the said Himalay. During the investigation, further statements were recorded; however, the full name of the assailant was not revealed. On the basis of the said report, police have registered the crime against the present applicant on suspicion.

4. Learned counsel, Mr. Tiwari for the applicant submitted that as far as the Himalay is concerned, the name of the applicant is not as Himalay, and the applicant was not placed for the test identification parade. None of the statements shows the involvement of the present applicant in the alleged offence. Now investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required.

5. Learned APP strongly opposed the said application on the ground that, from the statements of the witnesses, the involvement of the present applicant was revealed. Considering the gravity of the offence, that injured was set on fire by the present applicant, the bail application deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. From which, only the name of the assailant is revealed as Himalay, but the investigating officer has not carried out any investigation as to the fact that the applicant is the person who set the deceased on fire, and he is also known as Himalay. Thus, merely on suspicion at this stage, the applicant came to be arrested. Considering the investigation is already completed and charge-sheet is already filed, and

the investigation itself appears to be doubtful, further incarceration of the present applicant is not required, therefore, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) The applicant – Himalay Rajesh Nimbalkar, shall be released on bail, in connection with Crime No. 480/2021 registered with Police Station Tahsil, Nagpur for the offence punishable under Sections 302, 307 and 324 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned police station once in a month on 1st of every month between 10.00 a.m. to 01.00 p.m. and investigating officer shall record his presence.
- d) The applicant shall attend the proceedings before the trial Court without seeking any explanation unless there are exceptional circumstances.
- e) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The criminal application stands disposed of.

[URMILA JOSHI-PHALKE, J.]