



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

CRIMINAL APPLICATION (ABA) NO. 407 OF 2024

Arsalan Sheikh Babu 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. S.A. Mohta, counsel for the applicant.

Mr. M.J.Khan, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/06/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime Number 314 /2024 registered with Police Station Arni, Tq. Arni, District Yavatmal for the offence punishable under Sections 143, 144, 146, 147, 148, 307, 341, 324, 504, 506 read with Section 149 of the Indian Penal Code, 1860; and Sections 3 and 25 of the Arms Act 1959 and Section 135 of the Bombay Police Act, 1951, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation is made against the present applicant along with other co-accused on the basis of a report lodged by Suresh Pundlikrao Dhale, on an allegation that he has been carrying business of selling building material under the name and style as "Pruthwi Building Material". There was business rivalry between him and the co-accused Anjum Lal. The said rivalry is there, as the informant has received the tender for sand mining in the Painganga River Basin at village Bhosa.

3. It is further alleged that one Asim Ansari resident of Yavatmal is also engaging in the business of mining sand from Sakur to Basin within the limits of village Sakur, Tq. Arni, District Yavatmal. On 28/03/2024 at 10.00 p.m. the Watchman - Devanand Khandre called him and informed that near about 20 to 25 persons aged between 20 to 40 years abusing and threatening the watchman on account of use of road constructed for transportation of mining of the sand. Thereafter immediately, he rushed to the spot of incident with one Datta Shinde and others, wherein he found the Anjum Lal and other co-accused including the present applicant, and there was hot exchange of words between them. During that incident, one of the accused fired bullets by using a pistol, and the other accused have pelted stones towards him. In the said incident, he has sustained the injuries.

4. Learned counsel for the applicant submitted that as far as the applicant is concerned, his name is neither mentioned in the FIR nor stated by the eye-witnesses, whose statement is recorded. He submitted that in the other statements of the witnesses, the general allegation is made against him that he is also one of the person who pelted the stone. Thus considering no overt-act is attributed to him, his custodial interrogation is not required. Even assuming the allegation of pelting of the stone, the incriminating articles were lying at the spot of the incident, and therefore, custodial interrogation of the present applicant is not required.

5. Learned APP strongly opposed the said application on the ground that between the rivalry of the two groups, one of the accused had used the firearm by firing the bullet. Moreover, the informant has sustained the injuries due to the pelting of the stone, as one stone hit the informant. There is a specific allegation against the present applicant that he was present at the spot, and one of the persons has pelted the stone towards the informant. Thus, considering the role attributed to the present applicant, his bail application deserves to be rejected.

6. Heard learned counsel for the applicant and learned APP for the State, perused the FIR as well as the entire charge-sheet along with the statements of the witnesses. The investigation is already completed and the charge-sheet is already filed. As far as the present applicant is concerned, his name is not mentioned in the FIR. The statement of the informant and the other witnesses attributes the vague allegation against the present applicant. As far as the eye-witness is concerned, who has not narrated either the name of the present applicant or the role, which is played by the present applicant. Considering now, the investigation is already completed and charge-sheet is already filed, and there is no overt-act attributed to the present applicant, his prayer for grant of anticipatory bail deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a) The criminal application is allowed.

- b) In the event of arrest, in connection with Crime Number 314 /2024 registered with Police Station Arni, Tq. Arni, District Yavatmal for the offence punishable under Sections 143, 144, 146, 147, 148, 307, 341, 324, 504, 506 read with Section 149 of the Indian Penal Code, 1860; and Sections 3 and 25 of the Arms Act 1959 and Section 135 of the Bombay Police Act, 1951, the applicant- Arsalan Sheikh Babu, shall be released on anticipatory bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d) The applicant shall not involve any similar types of activities in future.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]