



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

CRIMINAL APPLICATION (BA) NO. 553 OF 2024

Nikhil s/o Suresh Gawande 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. S.G. Joshi, counsel for the applicant.

Mr. N.B. Jawade, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 12/07/2024.

1. The present applicant is arrested, in connection with crime No. 59/2024 registered with Police Station Daryapur, Tq. Daryapur, District Amravati for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by Nandkishor Umesh Haware, on the allegation that there was a previous dispute between the present applicant and him on account of the communication with one lady. On 26/01/2024, there was quarrel between them. On the same night, at about 8.30 p.m., when he was at his house, at that time present applicant, along with the other co-accused, came at his house, and there was a hot altercation between them. At the relevant time, his brother was also present. The present applicant and other co-accused assaulted them. As far as the present applicant is concerned, it is alleged that he was holding the Axe in his hand and

gave a blow by Axe on his head, and also assaulted his brother Pankaj; they both have sustained the grievous injuries. On the basis of said report, police have registered the crime against the present applicant and the other co-accused. The other co-accused is already released on bail.

3. Mr. S.G. Joshi, learned counsel for the applicant submitted that, now the investigation is completed and charge sheet is filed, the injured are not under the apprehension of death. They have already been discharged from the hospital. Now, considering the investigation is completed, further incarceration of the present applicant is not required, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the injured have sustained injuries on vital part i.e. on head. The crime report as well as the injury report show that there was an apprehension of death; in view of that, the application deserves to be rejected. He further submitted that incriminating weapons are already seized at the instance of the present applicant, and there is no apprehension of tampering of the witnesses and both are residents of the same village.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. From which, it reveals that the statements of the injured which are supported by the medical report. The medical report sufficiently shows the involvement of the present

applicant, who has given a blow by means of an axe, on the vital part of the body. Now investigation is already completed and charge-sheet has been filed, and there is no apprehension of death as both injured have already been discharged from the hospital. Considering the investigation is completed and charge-sheet is filed, the application of the present applicant deserves to be considered by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) The applicant – Nikhil Suresh Gawande shall be released on bail, in connection with crime No. 59/2024 registered with Police Station Daryapur, Tq. Daryapur, District Amravati for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the vicinity of village Hingni Mirzapur, Tah. Daryapur, District Amravati till culmination of the trial.
- d) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- e) The applicant shall attend the proceedings before the Sessions Court without seeking any exception unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]