



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

CRIMINAL APPLICATION (BA) NO.595 OF 2024

Mohd. Shaiban s/o Mohd. Nasir

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Tahsil,
Nagpur

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

Court's or Judge's orders

Mrs. R. M. Khapekar, Advocate for applicant.
Mr. S. A. Shirgade, APP for respondent/State.

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

1. The applicant came to be arrested on 20.04.2024 in connection with Crime No.256/2024 registered with Police Station, Tahsil Nagpur for the offences punishable under Sections 307, 504 and 506(2) read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Sundarvalli Ayyaswami Pawade on an allegation that on 18.04.2024 when he was at home at about 8.00 p.m., his son Shiva was also at home and there was no electricity at the house therefore, he sent his son to make some arrangements as to the electricity. At about 9.30 p.m. he along with his daughter-in-law were sitting out side the house, at that time there was a quarrel between his son and two other persons. These two

other persons have assaulted his son. Out of them, a person by name Anna was holding knife and the present applicant hold the hands of the injured and the co-accused given a blow of knife on the person of the injured. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the role of the present applicant is concerned, which is only to the extent of holding hands. He was not having knowledge that the other co-accused is holding the knife and gave a blow of knife. Thus, the involvement of the present applicant is not in actual assault by any weapon. Now, the investigation is already completed and charge-sheet is filed. The injured is already discharged from the hospital, in view of that he be released on bail.

4. The learned APP strongly opposed the said application on the ground that in furtherance of common intention injured was assaulted by the co-accused and present applicant was sharing the common intention with the co-accused. He hold the hands of the injured and thereafter, the co-accused has executed the act by giving a blow by knife, the injured has sustained three grievous injuries. Considering the nature of the offence and the gravity of the same, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that in a sudden fight and sudden quarrel the co-accused has given a blow by knife on the person of the injured and the role attributed to the present applicant is that he was holding the hands of the injured at the relevant time. Now, the investigation is already completed and charge-sheet is already filed. As far as the common intention is concerned, which is a matter of evidence. At this stage, considering the injured is already discharged from the hospital and not under the apprehension of death. The investigation is completed, further incarceration of the present applicant is not required, in view of that application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Mohd Shaiban s/o Mohd. Nasir** shall be released on bail, in connection with Crime No.256/2024 registered with Police Station, Tahsil Nagpur for the offences punishable under Sections 307, 504 and 506(2) read with Section 34 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 induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicant shall not enter into the vicinity of 30 D Guard Line Railway Quarter, in the jurisdiction of Police Station Tahsil, Nagpur, till the culmination of the trial.

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

(vi) The applicant shall attend the proceeding before the learned Sessions Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)