



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

CRIMINAL APPLICATION (BA) NO. 684 OF 2024

Ashik Ali @ Aasif Motya s/o Shaukat Ali 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. A.M. Jaltare, counsel for applicant.

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

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 10/09/2024.

1. The applicant came to be arrested on 10/07/2021 in connection with Crime No. 730/2021 registered with Police Station Wardha, Tah. & District Wardha for the offences punishable under Sections 307 read with Section 34 of the Indian Penal Code, 1860; Sections 4, 25, 27 of the Indian Arms Act, 1951.

2. Learned counsel for the applicant submitted that prior to logging of the said First Information Report, the co-accused, Sagar Arunrao Zade, had lodged the report with Wardha City Police Station bearing crime No. 729/2021, alleging that he and the present applicant have sustained the injuries as well as assault by the informant and his companion. He submitted that the cross-complaints are filed regarding the incident alleging against each other. They assaulted each other, and injured Rahul has sustained the injury on his abdomen, as he was assaulted by the present

applicant and the other co-accused, Irfankhan @ Immu s/o Raufkhan Pathan.

3. He further submitted that now the co-accused to whom the similar role is attributed is already released on bail. The trial is also on the verge of completion. He submitted that though the trial in which the applicant is an accused is on the verge of completion, the cross-complaints are yet to be commenced, and being it is cross-complaints both to be decided simultaneously and therefore, the other crime would take its own time for final disposal. Both party members were holding deadly weapons like knives and swords. He further submitted that, as far as the present applicant is concerned, the role attributed to him shows that he has given a blow on the person of the injured. Now, injured is already discharged from the hospital. There is no apprehension of death, in view of that, the applicant be released on bail.

4. Learned APP strongly opposed the said application on the ground that there are criminal antecedents against the present applicant and he is involved in similar types offences. It is further submitted that as far as the role of the present applicant is concerned, which is very specific that he was holding a deadly weapon in his hand and gave a blow on the abdomen, i.e. vital portion of the body. Though the injured is discharged from the hospital and there is no apprehension regarding the anticipation of the death, considering the injury sustained by the injured which

sufficiently shows that the injury is in the nature of endangering human life. If the applicant is released on bail, there is every possibility of involving himself in similar types of offence.

5. After hearing the learned counsel for the applicant and the learned APP for the State, on perusal of the investigation papers and the recitals of the FIR, there is no dispute that counter cases are registered against each other and both members have sustained the injuries. As far as the role of the present applicant is concerned, a specific allegation is made against him. It also reveals that, during the free fight between the accused persons and the informant and his companion, the injured have sustained the injury. Admittedly, the injured has sustained grievous injury, which might have proved fatal to him if he was not treated timely. Considering the fact that now the evidence of the material witnesses is already recorded and there is no possibility of tampering of the witnesses. As far as the injuries sustained by the injured are concerned, though they are grievous in nature. Considering that there is no apprehension of death, now he is discharged from the hospital and no further treatment is given to him. The trial is on the verge of completion, however, the cross-complaints will take its own time for its final disposal. In view of that, the applicant cannot be kept behind bars for an indefinite period. Hence, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order;

ORDER

- a. The application is **allowed**.
- b. The applicant – Ashik Ali @ Aasif Motya s/o Shaukat Ali in connection with Crime No.730/2021, registered with Police Station Wardha (City), District Wardha for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code and Sections 4, 25 and 27 of the Arms Act, shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c. The applicant shall attend the concerned police station on the first day of every month till the culmination of both the trials.
- d. The applicant shall furnish his Cell phone number and address with address proof.
- e. The applicant shall not directly or indirectly make any inducement, threat or promise to any person who are connected with the alleged crime.
- f. The applicant shall not indulge in similar types of activities, on finding of the same, the bail

granted to the present applicant deserves to be cancelled.

The application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]