



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

CRIMINAL APPLICATION (BA) NO.809 OF 2024

Santosh Ramsurat Gupta

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Ballarpur, District Chandrapur

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

Court's or Judge's orders

Mr. A. A. Dhawas, Counsel for the applicant.

Mr. C. A. Lokhande, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/09/2024

1. The applicant came to be arrested on 23.07.2024 in connection with Crime No.682/2024 registered with Police Station, Ballarpur, District Chandrapur, for the offences punishable under Sections 109, 118, 326(g) and 61(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 3(a) of the Explosive Substances Act.

2. The crime is registered on the basis of report lodged by Abhishek Malu alleging that he is running a cloth shop which is situated at Gandhi Chowk, Ballapur. Initially, he lodged the FIR against the son of the present applicant as the son of the present applicant set his shop on fire. During the pendency of the investigation, again the present applicant who conspired and in pursuance of that conspiracy, at about 10.40 a.m. one person entered

into the shop of the informant and attacked on the Kartik who was present in the shop, at the relevant time, other persons pelted the petrol bomb, the informant which hit at the shop table and there was a loud noise. The informant further alleged that as he was scared and there were persons also who were standing outside the shop and repeatedly pelting explosive substances at his shop. He hide himself at the roof of the shop. After they left the place, he came down in the shop and saw that his servant Kartik has sustained bleeding injury on his left leg. Thereafter, he approached the Police Station and lodged the report. 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 present applicant is concerned, he was not named in the earlier FIR and the police were harassing the applicant and other family members by calling them at Police Station therefore, he filed a writ petition before this Court. He further submitted that subsequent to that event, this FIR was lodged against the present applicant by making false allegations. As far as the allegation against the present applicant is concerned, which is only to the extent of the participation in the conspiracy. He submitted that as far as the conspiracy is concerned, no direct evidence is available, except the statement of the co-accused.

Now considering the investigation is completed and except the statement of the co-accused, there is no other material to connect the present applicant with the alleged offence, the investigation is completed and charge-sheet is filed, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that in pursuance of the conspiracy, the shop of the informant was attacked by the son of the present applicant and other co-accused in which the servant of the informant sustained injury which was a life threatening injury. Thus, considering the role of the present applicant in the conspiracy, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the entire investigation papers from which it reveals that besides the statement of the co-accused, no other material is collected during the investigation. As far as conspiracy is concerned, admittedly, no direct evidence is available to show the involvement of the present applicant in the conspiracy, but there should be some evidence to show that the applicant was the member of the conspiracy and in pursuance of the said conspiracy, the alleged incident has taken place. Thus, in absence of the evidence, at this stage, the applicant has made out a case of grant of bail. Moreover, the investigation is completed and

charge-sheet is filed, in view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Santosh Ramsurat Gupta** shall be released on bail, in connection with Crime No.682/2024 registered with Police Station, Ballarpur, District Chandrapur, for the offences punishable under Sections 109, 118, 326(g) and 61(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 3(a) of the Explosive Substances Act, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety of 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 attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)