



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

CRIMINAL APPLICATION (BA) NO. 839 OF 2024

Pratik @ Kidney s/o Ram Sarvare 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.M. Nafde, counsel for applicant.

Mr. H.D. Dubey, APP for non-applicant/State.

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

1. The applicant came to be arrested on 05/04/2024, in connection with Crime No. 211/2023 registered with Police Station Sadar, Nagpur for the offence punishable under Section 307, 450 read with Section 34 of the Indian Penal Code, 1860; Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act.

2. The crime is registered on the basis of a report lodged by the informant, namely Raju Pandurang Wagh, on an allegation that there is a dispute between him and his nephew, i.e. co-accused Sumit Digambar Wagh. On 06/05/2023, at about 1.30 a.m., when he along with his wife were sleeping at the house, co-accused Sumit along with his three friends entered the house, and Sumit had given a blow of knife on the person of his wife. Due to which, she has sustained the injury, and the friends of the Sumit also assaulted him as well as his friends. On the basis of the said report, police have registered the crime against the present applicant and other co-accused. During the

investigation, the statement of the injured is also recorded, wherein she has stated that a knife blow was given by one of the friends of the Sumit, and therefore, he sustained the injury. After completion of the investigation, a charge sheet is submitted against the accused.

3. Learned counsel for the applicant submitted that there are inconsistent statement as far as the knife blow is concerned. The informant stated that the knife blow is given by the co-accused Sumit, whereas the injured has stated that a friend of the Sumit has given the knife blow. Undisputedly, as far as the allegations, two friends of the Sumit were along with him. As far as the involvement of the present applicant, none of the witnesses have stated that it was the present applicant who has given the knife blow on the person of the injured. The incriminating weapon is also not seized at the instance of the present applicant, it was seized at the instance of co-accused Sumit. The applicant is also not placed for the T.I. Parade, and therefore, there is no identification that the present applicant was present at the time of the incident. As far as the injury certificate is concerned, the injured have sustained two stab injuries, which are grievous in nature. However, there is inconsistent evidence as to who has given the blow of a knife on the person of the injured. He submitted that considering the nature of the evidence, the applicant is not assigned with the role of knife blow. In view of that, he be released on bail.

4. Learned APP Strongly opposed the said application and submitted that prima-facie case is made out against the present applicant, as during the investigation, the statement of the injured and the informant shows that the applicant came along with the co-accused in the house and assaulted the informant and his wife. The injured has sustained the grievous injury, which is sufficient to cause death, but as the injured has received the timely treatment and therefore, she survived. Considering the nature of the injury, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, which show that there are inconsistent statements as to who has actually given a blow of the knife on the person of the injured. As far as the present applicant is concerned, it is nobody's case that it was the present applicant who has given a knife blow on the person of the injured. He was not also placed for the T.I. Parade. Thus, at this stage, there appears to be no evidence that the present applicant is the person who has given the knife blow on the person of the injured. Now, investigation is completed and charge-sheet is filed, further incarceration is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The criminal application is allowed.
- b] The applicant -Pratik @ Kidney s/o Ram Sarvare shall be released on bail, in

connection with Crime No. 211/2023 registered with Police Station Sadar, Nagpur for the offence punishable under Section 307, 450 read with Section 34 of the Indian Penal Code, 1860; Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act, on furnishing PR. 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 enter into the jurisdiction of Sadar Police Station, Nagpur till culmination of the trial.
- e] The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]