



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

CRIMINAL APPLICATION (BA) NO. 863 OF 2024

Shafik Khan Hamid Khan Pathan and another
Vs.
State of Maharashtra, Through Police Station Officer, Police Station,
Anjangaon, Amravati

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

Court's or Judge's orders

Mr. N. P. Singhania, Counsel for applicants.
Ms. Trupti Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/10/2024

1. The applicants came to be arrested on 16.07.2024 in connection with Crime No.479/2024 registered with Police Station, Anjangaon, District Amravati for the offences punishable under Sections 109, 118(1), 189(2), 191(2), 191(3), 190 and 352 of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of the report lodged by Gulnaz Parveen Nashir Shaha wherein it is alleged that on 15.07.2024 at about 7.30 p.m., there was a quarrel between the co-accused Shahrukh Pathan and him and during that quarrel said Shahrukh Pathan has given a knife blow on his abdomen whereas, the present applicants and other co-accused assaulted him by fist and kick blows. On the basis of said report, police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicants. Perused the investigation papers. He submitted that as far as the present applicants are concerned, only allegation is that they were assaulted by fist and kick blows. The role of assault by knife is attributed to the co-accused. As far as further incarceration of the present applicants is concerned, it is not required, in the light of the allegation against them.

4. Learned APP strongly opposed the said application and submitted that in furtherance of common intention, the accused assaulted the injured and injured has sustained the grievous injury which was sufficient to cause death in the ordinary course of nature. In view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. During the investigation, the victim was sent for medical examination which shows that injured has sustained the grievous injury due to the assault by the knife and the said act is attributed to the co-accused Shahrukh Pathan. As far as the present applicants are concerned, allegation against them is only to the extent of fist and kick blows. Considering the role attributed to the present applicants, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **No. (1) Shafik Khan Hamid Khan Pathan** and **No. (2) Rafique Khan Hamid Khan Pathan** shall be released on bail in connection with Crime No.479/2024 registered with Police Station, Anjangaon, District Amravati for the offences punishable under Sections 109, 118(1), 189(2), 191(2), 191(3) 190 and 352 of the Bharatiya Nyaya Sanhita, 2023, on executing PR Bond of Rs.25,000/- each with one solvent surety in the like amount.
- (iii) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (iv) The applicants shall not enter into the vicinity of Azizpura Surji, Anjangaon, till the culmination of the trial.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)