



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

CRIMINAL APPLICATION (BA) NO.849 OF 2024

Durgesh s/o Ramesh Khare

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Ramnagar, Gondia, District Gondia

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

Court's or Judge's orders

Mr. A. S. Manohar, Counsel for the applicant.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/10/2024

1. The applicant came to be arrested on 30.11.2023 in connection with Crime No.369/2023 registered with Police Station, Ramnagar, Gondia, District Gondia for the offence punishable under Section 386 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Ashok Pathak alleging that he owns one Kesar Bar and Restaurant at Balaghat Road, Basant Nagar, Gondia. He is acquainted with all the accused persons as they are his regular customers. It is alleged that the present applicant threatened the Manager of the Bar since one and half years and used to obtain the liquor on credit. On raising the objection, he used to show a sharp edged weapon

and firearms and used to threaten if the complaint is made. On 26.11.2023 also, the other accused came in the Bar and demanded for the liquor, on refusal he abused the staff of the Bar. Thereafter, the present applicant also came. He also threatened the staff of the Bar and consumed liquor and bill was not paid. Due to the said act of the present applicant and other co-accused, the staff members informed the owner that they would leave the job and would not work in the said Bar. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that as far as the allegation against the present applicant is concerned which are base less and false one. He pointed out from the investigation papers that the recitals of the FIR and the statements of the witnesses itself shows that the other customers were also present, but the Investigating Officer has not recorded the statement of the relevant witnesses. Now the investigation is already completed and charge-sheet is filed. As far as the criminal antecedents are concerned, in most of the offences the applicant is acquitted. Considering the investigation is already completed and charge-sheet-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application and submitted that approximately 12 offences are registered against the present applicant which are of a similar nature. Despite the various actions taken against the present applicant, he is involved in the similar type of the activities. He invited my attention towards the various statements of the witnesses as well as the panchnama and submitted that at the instance of the present applicant, the weapon of the offence is also recovered. Considering 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. As far as the involvement of the present applicant in the alleged offence is concerned, which reveals from the investigation papers. Admittedly, the investigation is completed and charge-sheet is filed. As far as the criminal antecedents are concerned, the Hon'ble Apex Court in various decisions including **Maulana Mohd. Amir Rashadi Vs. State of Uttar Pradesh and another** reported in **(2012) 2 SCC 382** observes that merely on the basis of criminal antecedents, the claim of the respondent cannot be rejected.

6. In the light of the above observation, here also though there are criminal antecedents against the present applicant, but considering the nature of

the incident which took place and for which the applicant is charged and the investigation is completed, further incarceration of the present applicant is not required. 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 **Durgesh s/o Ramesh Khare** shall be released on bail, in connection with Crime No.369/2023 registered with Police Station, Ramnagar, Gondia, District Gondia for the offence punishable under Section 386 read with Section 34 of the Indian Penal Code, on executing PR Bond in the sum of Rs.25,000/- with solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Gondia City except attending the proceeding before the Sessions Court.
- (iv) The applicant shall not involved or indulge himself in similar types of the activities.
- (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- (vi) On reporting the involvement of the present applicant in the similar type of the criminal activities, the bail granted to the applicant deserves to be cancelled.
- (vii) The applicant shall submit his mobile number and address where he is intending to

reside after releasing him on bail along with the address proof.

(viii) The applicant shall attend the concerned Police Station twice in a month on 1st and 15th of every month and he shall enter into the jurisdiction of Gondia City only for the purpose of attending the trial and attending the Police Station.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)