



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

CRIMINAL APPLICATION (BA) NO. 929 OF 2024

Sumit Santosh Date 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. R.L. Alone, counsel for applicant.

Mr. D.V. Chauhan, Public Prosecutor (Senior Counsel) with Mr. S.V. Narale,
APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/10/2024.

1. By this application, the applicant is seeking regular bail, as he was arrested on 26/01/2024 in connection with crime No. 84/2024 registered with police station Ramnagar, Chandrapur for the offences punishable under Sections 143, 147, 148, 302, 120(B) read with Section 149 of the Indian Penal Code, 1860, Sections 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 Nilesh Bhagwan Hiwarale, alleging that there was a previous dispute between the co-accused and the deceased Shiva Wazalkar on account of obtaining the loan to purchase the vehicle. On 25/1/2024, at about 8.00 pm, when the informant along with the deceased and the other friends were chit-chatting, the deceased received a phone call from co-accused Himanshu Kumare, who abused him, and thereafter, called him in front of the office of Swapnil Kashikar, i.e. one of the co-accused. There was a hot

exchange of words between them, and during the altercation, the co-accused, Himanshu Kumare, took out the knife and gave the blow on the abdomen of the deceased. Due to which the deceased fallen on the ground, and thereafter, he was assaulted by all other accused by fist and kick blows. The deceased subsequently succumbed to the death. On the basis of said report, police have registered the crime against the present applicant and other co-accused.

3. Learned counsel for the applicant submitted that the co-accused, namely Nazir Rafik Shaikh, to whom a similar role was assigned, is already released on bail by this Court. He further submitted that, as far as the present applicant is concerned, except his presence, no other role is attributed to him. As far as his knowledge that the co-accused was carrying the knife along with him, there is no material to show that he was aware about the intention of the other co-accused. During the investigation, his clothes were recovered by the investigating agency, but no blood stains were found on them. The CCTV footage nowhere shows the presence of the present applicant during the alleged incident. Thus, considering all this evidence, the applicant be released on bail on the ground of parity as well as considering the merits of the case.

4. Learned PP strongly opposed the said application on the ground that gravity of the offence is to be looked into. The statements of seven eyewitnesses show the

involvement of the present applicant, and in furtherance of the common intention, the said act is executed by the co-accused. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, it reveals that with similar role, the co-accused Najeer Rafeek Sheikh is released on bail by this Court, as far as the role of the present applicant is concerned, which is identical, no other role is attributed to him, as far as his knowledge is concerned. There is no material to show that he was knowing about the fact that the other co-accused is carrying the knife along with him. Considering the material collected by the investigating agency, admittedly no overt-act is attributed to the present applicant, as to the conspiracy is concerned, no direct evidence is available, and the circumstantial evidence is also not connecting the present applicant, as far as the conspiracy is concerned, in view of that application deserves to be allowed. Accordingly, I proceed to pass the following order;

- a] The criminal application is allowed.
- b] The applicant – Sumit Santosh Date shall be released on bail, in connection with crime No. 84/2024 registered with police station Ramnagar, Chandrapur for the offences punishable under Sections 143, 147, 148, 302, 120(B) read with Section 149 of the

Indian Penal Code, 1860, Sections 4, 25 of the Arms Act and Section 135 of the Maharashtra Police Act, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into vicinity of Chandrapur city except attending the trial before the Sessions Court.
- d] The applicant shall furnish his address with address proof wherein he is intending to reside after releasing him on bail, and shall furnish his cellphone number(s) to the investigating officer.
- e] The shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- f] The applicant shall not leave the jurisdiction of the entire Chandrapur District without prior permission of the Court.
- g] The applicant shall attend the proceedings before the trial Court regularly without seeking exception unless there are exceptional circumstances.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]