



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.1003 OF 2024
(Abdul Khalil s/o Abdul Hakim 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.J. Mirza, Advocate for the applicant.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 21, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 29/05/2024 in connection with Crime No.326/2024 registered with Police Station Balapur, District Akola for the offence punishable under Sections 307, 326, 324, 323, 504, 506, 147, 148, 143 read with Section 149 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the wife of the deceased an allegation that she is residing in ITI college colony and the co-accused Sheikh Azhar is residing in her neighbourhood. There used to be previous dispute between both of the families. She alleged that on several occasions, the co-accused had quarrelled with her husband. On 26/05/2024 at about 9.00 to 9:15 PM the co-accused came along with five to six unknown persons and the co-accused was holding knife in his hand and started assaulting her husband. She intervened in the

quarrel, at that time she was also assaulted by the co-accused. As far as the other 5 to 6 unknown persons are concerned she alleged that they have assaulted her as well as her husband by means of fist and kick blows. On the basis of said report, police have registered the crime against the present applicant. During investigation, the Investigating Officer has recorded her supplementary statement wherein she alleged that present applicant has assaulted her by means of knife by giving blow on her chest. The statement given under Section 164 Cr.P.C. she again alleged that another co-accused Gulam Jafar came along with the spade and assaulted her husband by means of spade. On the basis of the entire investigation papers, the charge-sheet was submitted against the present applicant and the other co-accused.

3. Learned Counsel for the applicant submitted that the informant has modified her version time to time. Initially, she has not alleged that present applicant was holding knife in his hand. In fact, his name was not mentioned in the FIR. Subsequently, in a subsequent statement that is after arrest of the present applicant she alleged that present applicant has assaulted her by means of knife and in her statement she come with a case that the another co-accused Gulam Jafar has assaulted her and her husband by means of spade. Thus, he submitted that the entire statements of the informant are the improved version, only to implicate all relatives of the co-accused in

the alleged incident. He submitted that considering the first statement of the informant only allegation against the present applicant is that he has assaulted by means of fist and kick blows that is by mentioning that unknown persons. Now investigation is completed and charge-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 application on the ground that initially the informant was in a scared condition, and therefore, she could not narrate each and every accused role. But in a subsequent statement she has alleged against the present applicant. During investigation, two knives are recovered at the instance of the co-accused. Considering the medical certificate of the informant and the postmortem report of the deceased, the involvement of the present applicant revealed. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the entire investigation papers from which it reveals that initially the allegation against the present applicant is that the unknown persons who came along with the co-accused assaulted by fist and kick blows. After the arrest of the present applicant, the subsequent statement was made that he was holding the knife. The knife is not recovered at the instance of the present applicant. As far as the allegations are concerned, there is

no allegation that the applicant has given a blow by knife on the person of the deceased. Even if, the allegation is accepted which shows that he has assaulted the informant. Now, the informant is already discharged from the hospital, there is no apprehension of death. The investigation is already completed and the charge-sheet is filed. Considering the inconsistent statements of the informant and the other circumstances on record, the applicant has made out a case for grant of bail. Hence, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Abdul Khalil s/o Abdul Hakim in connection with Crime No.326/2024 registered with Police Station Balapur, District Akola for the offence punishable under Sections 307, 326, 324, 323, 504, 506, 147, 148, 143 read with Section 149 of the Indian Penal Code, be released on bail on executing PR. bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Balapur, District Akola till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

(vi) The contravention of any of the condition would lead to the cancellation of bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*