



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

CRIMINAL APPLICATION (BA) NO.985 OF 2023

Javed Khan Munir Khan

Vs.

The State of Maharashtra, Through Police Station Officer, Malkapur (City),
District Buldhana

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. Nitin Autkar, APP for respondent No.1/State.
Ms. S. R. Tiwari, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/04/2024

1. The applicant came to be arrested on 20.04.2023 in connection with Crime No.197/2023 registered with Police Station, Malkapur (City), District Buldhana for the offences punishable under Sections 143, 147, 148, 302, 307, 324, 323, 506, read with 149 of the Indian Penal Code and 135 of the Maharashtra Police Act.

2. The accusation against the present applicant is on the basis of report lodged by Rajmohammad Abdul Rashid on an allegation that one Munir Khan Nur Khan is residing along with his wife and children and present applicant is also residing in the neighbourhood. There was some dispute between them on account of erection of the electric pole in front of the house. On 19.04.2023 the officials of MSEB have removed the said pole and

therefore, there was hot exchange of words. During that hot exchange of words, the informant and the other prosecution witnesses are assaulted by the present applicant and other co-accused. It is alleged that in the said incident, Abdul Sharif Abdul Razzak succumbed to the death and one Abdul Arif Abdul Razzak have received the grievous injury. On the basis of the said report, police have registered the crime against the present applicant and other co-accused.

3. Learned Counsel Mr. Sirpurkar for the applicant submitted that the cross-complaints are lodged about the said incident. The present applicant has also received the injury as he was stab by Abdul Sabir Abdul Razzak. Thus, present applicant has also received the grievous injury in the said incident. He further submitted that as far as the allegation against the present applicant is concerned to the extent that he has assaulted one Abdul Arif Abdul Razzak, who has sustained injury on his chest. Now, he is discharged from the hospital. As far as the allegation under Section 302 of the Indian Penal Code is concerned, there is no allegation that present applicant has assaulted the deceased. Now, the investigation is completed and charge-sheet is filed. The co-accused Akram Khan Munir Khan against whom the allegation of assault on the deceased are levelled is also released on bail, the other co-accused are released on bail. The accused in the

cross-complaints are also released on bail. Thus, both the parties have received the injuries in a free fight. Considering now, the investigation is completed and charge-sheet is filed. Further incarceration of the present applicant is not required and therefore, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the injured Abdul Arif Abdul Razzak had sustained the grievous injury in the said incident. If the applicant is released on bail, there is a possibility of repetition of the said incident in future, in view of that, the application deserves to be rejected.

5. Learned Counsel for the informant also strongly objected the said application and endorsed the said contention and prayed for rejection of the application.

6. Having heard the learned Counsel for the applicant and learned APP for the State and learned Counsel for the informant, perused the investigation papers. On perusal of the recitals of the FIR, it appears that the allegation against the present applicant is assault by the knife on injured Abdul Arif Abdul Razzak. Admittedly, there is no allegation against the present applicant to the extent that he has assaulted the deceased by means of any weapon. The injured Abdul Arif Abdul Razzak has now

discharged from the hospital and not under the apprehension of the death. From the recitals of the cross-complaint, on the basis of which the Crime No.198/2023 is registered against the informant and other prosecution witnesses shows that one Abdul Samir Abdul Razzak has given a blow of knife on the person of the present applicant. Thus, it is apparent that during the free fight, the members of both the parties have sustained the injuries in the alleged incident. Now, the accused in the present crime as well as the counter-crime are already released on bail. Considering the role of the present applicant, who assaulted the injured and the injured is now not under the apprehension of death. His bail application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Javed Khan Munir Khan** shall be released on bail in connection with Crime No.197/2023 registered with Police Station, Malkapur (City), District Buldhana for the offences punishable under Sections 143, 147, 148, 302, 307, 324, 323 and 506 read with Section 149 of the Indian Penal Code and 135 of the Maharashtra Police Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicant shall attend the proceedings of the Court without seeking any exemption unless there are exceptional circumstances.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)