



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

CRIMINAL APPLICATION (BA) NO.997 OF 2023

(Praful @ Bhimeswar s/o Kewalram Gaidhane Vs. State of Maharashtra and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.R. Saxena, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.

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

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 11/04/2023 in connection with Crime No.148/2023 registered with Police Station Sakoli, District Bhandara for the offence punishable under Sections 326 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by the wife of the injured namely Gayatri Sandip Meshram who alleged that her husband Sandip Nekram Meshram is labourer. On 01/04/2023 at about 8.00 p.m. when she along with her husband present at the house her husband received a phone call from unknown number and her husband communicated which apparently shows that there was a quarrel going on between him and somebody else and somebody was abusing him. On her enquiry, her husband disclosed that the phone call was of Praful Gaidhane who

was demanding the amount which is obtained by the injured as a hand loan. At about 1.00 a.m. she woke up and saw that her husband is not at home. Therefore, she searched for him and he was found in an injured condition, therefore, he was taken at home and thereafter in the hospital. On the basis of said report, police have registered the offence against one Praful Gaidhane i.e. the present applicant.

3. During investigation, the Investigating Officer has recorded the various statements of the witnesses as the injured has sustained the grievous injury and till today he is not in a condition to give a statement. His statement was not recorded.

4. Learned Counsel for the applicant submitted that only to avoid the liability of paying the amount which is obtained as a hand loan, the applicant is implicated falsely in the alleged offence. He invited my attention towards the history narrated before the Medical Officer which shows that the injured fallen from the height under the influence of the liquor and sustained the injury. Same history is narrated to the Medical Officer at General Hospital, Bhandara and then Government Medical College, Nagpur. Thus, the consistent history narrated before the Medical Officer that the injured has sustained the accidental injury. Now, the investigation is already completed and charge-sheet is already filed. Further

incarceration of the present applicant is not required and therefore, he be released on bail.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that the recitals of the FIR and the statements of various witnesses including Datta Dadaji Nagargoje, Dilip Vasudeo Patil shows the involvement of the present applicant with the alleged offence. There is a motive for the present applicant to assault the injured as he was intending to recover his amount. The injured is still under the treatment, he has sustained the grievous injuries and investigating agency could not record his statement due to his serious condition and prays for rejection of the application.

6. Having heard learned Counsel for the parties and perused the investigation papers. The FIR is lodged on 06/04/2023 i.e. after four days of the incident. The statement of the witnesses are also recorded on 10/04/2023 i.e. after ten days of the incident. I have also perused the medical reports which shows that in the General Hospital, Bhandara before the Medical Officer the history of the accidental injury is narrated by the relatives of the injured. It is pertinent to note that after recording the statement of the witnesses and the informant, the injured was admitted in the GMC, Nagpur on 03/04/2023 and discharged on 04/05/2023 wherein also the history of accidental injury is narrated by the relatives of the injured. Admittedly, there is no reasons assigned while lodging the

FIR behind the delay in lodging the FIR. Considering the entire material except the statement of the complainant, there is no other material to show that due to the hand loan which is given by the present applicant to the injured, injured was assaulted by the present applicant. Moreover, now investigation is completed and charge-sheet is filed. Further incarceration of the present applicant is not required. In view of that application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant - Praful @ Bhimeswar s/o Kewalram Gaidhane in connection with Crime No.148/2023 registered with Police Station Sakoli, District Bhandara for the offence punishable under Sections 326 of the Indian Penal Code, be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- (iv) The applicant shall not leave the jurisdiction of Bhandara district without prior permission of the Court.

(v) The applicant shall furnish his Cell phone number and address with the address proof before the Investigating Officer.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*