



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

CRIMINAL APPLICATION (BA) NO.1026 OF 2023

(Mohammad Shoeb s/o Salim Khan 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.M. Patwardhan, Advocate for the applicant.
Mr. S.C. Joshi, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 11, 2024

By this application, the applicant is seeking bail in connection with Crime No.41/2013 registered with Police Station Yashodhara Nagar, Nagpur for the offences punishable under Sections 109, 147, 148, 307, 353 read with Section 149 of the Indian Penal Code and Sections 3 and 25 of the Arms Act, 1959.

2. The applicant is arrested on 05/08/2013. Since then he is behind bar.

3. The applicant is prosecuted on the basis of report lodged by Pritam Panditrao Choudhari alleging that on 06/03/2013 he was on patrolling duty along with other Police Constables, at that time, he found that several absconding criminals were standing near KGN Hotel, Railway Crossing, therefore, the complainant and other police staff started moving towards them, but as soon as the other co-accused saw the police staff, they started their car with an intention to flee away. Therefore, the complainant and one Vijendra Yadav, who is also Police

Constable hold the car. In the said scuffle, one co-accused Satendra Gupta assaulted the Vijendra Gupta, a police constable with a knife on his neck, and head. Whereas, another accused Raja Gaus has prepared to fire a gunshot, to another member namely Mr. Mahesh Jadhav. While the other co-accused and the present applicant were hanging to the car and flee away by their car. On the basis of said report, the police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that the co-accused with similar allegation is already released on bail. In fact, the name of the co-accused is mentioned in the FIR is also released on bail. The name of the present applicant is not mentioned in the FIR, no specific role is attributed to him. Since 2013, the applicant is behind bar, in view of that he be released on bail.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that in all 20 offences are registered against the present applicant. Thus, he is continuously involved in various criminal activities, in view of that, the application deserves to be rejected. He further submitted that now trial is already commenced, therefore, the application of the present applicant deserves to be rejected.

6. I have heard learned Counsel for the parties. Perused the investigation papers. As far as the

investigation is concerned, admittedly the name of the present applicant is not mentioned in the FIR. However, during TI parade he is identified by the witness. There is no dispute as to the fact that the applicant is behind bar since the date of his arrest and he has undergone more than half period of the punishment which is provided for the offence punishable under Section 307 of the IPC. However, there are criminal antecedents against the present applicant, in all 20 offences are registered against him. Now, trial is already commenced. Considering the criminal antecedents which shows that 20 offences are registered against him and which are in the nature of Sections 392 and 395 of the IPC and under the provisions of the Arms Act, 1959. In view of the fact that the trial is already commenced and would be concluded in near future and considering the criminal antecedents against the present applicant, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)