



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

CRIMINAL APPLICATION (BA) NO. 1036/2023

Pradeep s/o Dhanraj Kamde and another V/s 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. A.R.Jaltare, counsel for applicants.

Mr. A.R.Chutke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/01/2024.

1. The present application is preferred by the applicants for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No. 391/2023, registered at Police Station Parshivani , Tq. and Dist. Nagpur Rural for the offence punishable under Sections 307,504 read with Section 34 of the Indian Penal Code.

2. The applicants are arrested on 13/10/2023 and since then they are behind the bar.

3. The accusations against the present applicants is on the basis of report lodged by Ritesh Madhavrao Kamde on an allegation that 13/10/2023 at about 1.30 p.m., the present applicant and the applicant No.2 abused his nephew and complainant. Thereafter, both the applicants caught hold the collar of the present informant and his nephew. By witnessing this, the applicant No.2 came out of the house by holding Sattur in

his hand and gave a blow on the buttock of the injured. On the basis of said report, the Police have registered the crime against the present applicants.

4. Mr. A.C. Jaltare, learned counsel for the applicant submitted that as far as the nature of the incident is concerned, which occurred suddenly, there was no premeditation or preparation to commit any assault. During the altercation of the words, the applicant No.2 has brought the weapon and gave a single blow by means of said Sattur. As far as the present applicant no.1 is concerned, only allegation against him, that he abused and caught the informant and his nephew. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicants is not required. The injured is also discharged from the hospital.

5. The said application is strongly opposed by the State on the ground that, the applicant No.2 has used the weapon like Sattur to assault the injured. Due to which, injured has caused the grievance injury. Though, the investigation is completed and charge-sheet is filed. There is apprehension that if applicants/accused are released on bail, they tamper with the prosecution evidence and prays for rejection of the application.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. There is no dispute that during the altercation, suddenly the alleged incident has occurred.

There was no premeditation, but the applicant No.2 has brought the Sattur from the house and gave a blow in the said sudden quarrel. Now, the injured has already been discharged from the hospital and there is no life threatening incident. The investigation is also completed and charge-sheet is filed, further incarceration is not required, and no purpose will be served by keeping the applicant behind bar.

7. In view of the above, criminal application deserves to be allowed by imposing certain condition. Accordingly, I proceed to pass following order:

ORDER

- a) The criminal application is **allowed**.
- b) The applicants – Pradeep Dhanraj Kamde and Umesh Pradeep Kamde, in connection with Crime No. 391/2023, registered with Police Station Parshivani, Tq. and Dist. Nagpur Rural, for the offence punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code, 1860, the applicants are released on bail, on furnishing P.R. Bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount.
- c) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- d) The applicants shall furnish their cell phone number(s) with address with address proof before the investigating agency.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]