



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

CRIMINAL APPLICATION (BA) NO. 1062 OF 2023

Imran Khan Ismail Khan V/s State of Maharashtra and another.

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

Court's or Judge's Order

Mr. S.P. Bhandarkar, counsel with Mr. Atharv Khadse, counsel for the applicant.
Mrs. M.A. Barbde, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/02/2024.

1. The present application is filed by the applicant for grant of regular bail, in connection with Crime No. 41/2013 registered with Police Station Yashodhara Nagar, Nagpur City, District Nagpur for the offence punishable under Sections 147, 148, 353, 307 read with Section 149 of the Indian Penal Code, 1860 and under Section 3/25 of the Arms Act and Section 135 of the Maharashtra Police Act, 1951. The applicant/accused came to be arrested 05/08/2013.

2. The applicant is prosecuted on the basis of report lodged by the Pritam Panditrao Chaudhary 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 who is the staff member, who 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.

3. Learned counsel Mr. S.P. Bhandarkar for the applicant submitted that as far as the allegation against the present applicant is concerned, only to the extent that he pushed the police member, who were attempting to catch the co-accused. Thus, the present applicant is not a person, who either assaulted the injured by any weapon. He submitted that as far as the co-accused Raja Gaus is concerned, against whom, the serious allegation is levelled that he attempted to fire a bullet towards one of the Constable is already released on bail. Since the date of his arrest i.e. 5.8.2013, the applicant is behind bar. Now, he has already undergone a detention period extending more than one half of the maximum period of imprisonment provided for the offence.

4. He further submitted that considering the co-accused against whom the serious allegations are levelled is already released on bail. The applicant to whom the lessor role is attributed and the applicant is behind bar. Since the date of his arrest, he be released on bail. He also invited my attention

towards the evidence recorded before the learned trial Court, and submitted that, till today, in all eight witnesses are examined by the prosecution, and from the evidence of eight witnesses, none of the witnesses are named the present applicant. Considering the nature of the evidence collected during the investigation against the present applicant, and the role attributed to the present applicant, his further incarceration in jail, would be the illegal detention. In view of that, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that the present applicant in furtherance of common object with the co-accused committed the act. In the said incident, the present applicant and other co-accused attack on a Police Constable, who were discharged their official duty. Considering the gravity of the offence, the application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. As far as the investigation is concerned, only role is attributed to the present applicant that, he and some of the accused have pushed the Police Constables, who were hanging on their car and restrained them from fleeing away. The co-accused namely Raja Gaus against whom the serious allegations are levelled, he attempted to fire a bullet towards the Police Constable is also released on bail. The applicant is behind bar since the date of his arrest i.e. 05/8/2013 that he has undergone more than half period of the punishment which is

provided for the offence punishable under Section 307 of the Indian Penal Code. Considering the nature of the evidence, moreover the witnesses who have examined before the Court not named to the present applicant, and his longer period of incarceration, the applicant shall be released on bail. In view of that, I proceed to pass the following order.

- a) The criminal application is **allowed**.
- b) In connection with Crime No. 41/2013 registered with Police Station Yashodhara Nagar, Nagpur City, District Nagpur for the offence punishable under Sections 147, 148, 353, 307 read with Section 149 of the Indian Penal Code, 1860 and under Section 3/25 of the Arms Act and Section 135 of the Maharashtra Police Act, 1951, the applicant- **Imran Khan Ismail Khan**, be released on bail on executing PR. bond of Rs. 50,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station i.e. Yashodhara Nagar, Nagpur, till the culmination of the trial once in a week on Sunday between 10.00 a.m. to 01.00 p.m. and the Police Station Officer shall record his presence.
- d) The applicant shall furnish his cellphone number(s) and address with address proof.

- e) The applicant shall not leave the jurisdiction of the Nagpur District without prior permission of the Court.
- f) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]