



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

CRIMINAL APPLICATION (BA) NO.1124 OF 2023

Sunil s/o Dilip Salve

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Chikhali,
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. P D. Jadhav, Advocate h/f Mr. G. N. Shinde, Advocate for applicant.
Mr. A. R. Chutke, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 05/01/2024

1. By preferring this application, the applicant is seeking bail in connection with Crime No.790/2023, registered with Chikhali Police Station, District Buldhana for the offence punishable under Sections 394, 323, 506 read with Section 34 of the Indian Penal Code. The applicant is arrested on 04.11.2023 and since then he is behind bar.

2. The accusation against the present applicant is on the basis of report lodged by Mohammad Equbal Mohammad Rafiq who alleged that he is running the hotel at market place Chikhali and acquainted with the present applicant and other co-accused Sachin Suresh Gawai. He further alleged that on 04.11.2023 at about 4.00 p.m. when he had been to his hotel, present applicant along with co-accused entered in the hotel and

forcefully took out the amount from the cash box and when he tried to restrain him, he was assaulted by the present applicant. Thus, present applicant has committed the theft of Rs.2,350/- and also assaulted him and his brother by means of knife. It is further alleged that present applicant is in habit of creating the pressure and terror in the area and snatching the amount from the various shop owners. On the basis of the said report, police have registered the crime against the present applicant.

3. It is submitted by the learned Counsel that now investigation is completed and charge-sheet is filed. The injury sustained by the injured are simple in nature. As investigation is completed and further custody is not required, he is the only bread earner of the family, therefore, he be released on bail.

4. Said application is strongly opposed by the State on the ground that there are criminal antecedents against him, as five offences are registered against the present applicant, which are in the nature of causing grievous hurt to the citizens. It is submitted by the learned APP that if applicant is released on bail, there is every possibility that he would be involved in similar type of the offence. Moreover, the offence committed by the present applicant is punishable with imprisonment for life. He further submitted that considering the present

applicant is habitual offender and created terror in the vicinity, his bail application deserves to be rejected.

5. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. From the recitals of the FIR and the investigation papers it reveals that, the present applicant by carrying the weapon like knife entered in the hotel and forcefully snatched the cash from the cash box and also caused the injuries to the informant as well as his brother. Due to the terror of the present applicant, the customers also fled away from the hotel as the customers were also threatened by the present applicant and another co-accused. From the investigation papers it reveals that, in all five offences are registered against him which are under Sections 326, 324 of the Indian Penal Code. Thus, there are criminal antecedents which shows that the applicant has committed various offences against the person of the citizens.

6. Learned Counsel for the applicant placed reliance on **Criminal Appeal No.153/2020 Prabhakar Tewari Vs. State of U.P., decided on January 24, 2020 (SC)**, wherein it is observed that merely because there are criminal antecedents, the liberty of the applicant cannot be curtailed. On going through the cited case law, there is no dispute as far as legal position is concerned that mere criminal antecedents are not sufficient to reject

the prayer of the applicant. However, in the present case, considering the recitals of the FIR and the statement of the witnesses which shows that the present applicant and another co-accused have created the terror in the vicinity and they are in habit of entering in the hotels and shops in the market place and forcefully snatching the amounts from the shops. Due to the terror of the present applicant and another co-accused, even the customers who were in the hotel also fled away from the spot. The applicant was released on bail in the earlier offence it is reflected from the report of the investigating agency that present applicant has misused the liberty when he is released on bail in the earlier offence registered against him, therefore the apprehension raised by the State is sustainable to show that if he is released on bail there is every likelihood of his involvement in committing the similar type of the offence. Considering the *prima facie* case against the present applicant, the bail application of the present applicant deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

Application is rejected.

(URMILA JOSHI-PHALKE, J.)