



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

CRIMINAL APPLICATION (ABA) NO.788 OF 2023

Ganesh s/o Rajendra Varma

Vs.

State of Maharashtra, Through its Police Officer Malegaon, District Washim

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Digvijay Mankar, Advocate h/f Mr. S. V. Sirpurkar, Advocate for applicant.

Mrs. M. A. Barabde, APP for respondent/State.

Ms. Krotika Shekhar, Advocate h/f Mr. R. S. Kurekar, Advocate for intervenor.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/01/2024

1. The present application is filed by the applicant for grant of pre-arrest bail in connection with Crime No.512/2023 registered with Police Station Malegaon, District Washim for the offence punishable under Sections 353, 332, 504, 506 and 394 of the Indian Penal Code.

2. As per the allegation of the informant Atmaram Janardhan Navghare that present applicant is a Government Contractor and informant is serving as Secretary of Grampanchayat Ekamba-Manka. Some works were sanctioned to the present applicant, but he has not completed the same and was demanding the bill. As he has left the incomplete work, therefore his tender was cancelled and therefore, there was quarrel between him and the applicant on 10.11.2023. It is alleged by the complainant that during the said quarrel present

applicant has assaulted him by means of iron rod and also committed theft of golden chain worth of Rs.2,00,000/-. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Digvijay Mankar submitted that the FIR is lodged on the basis of false allegation. In fact, the present applicant has also lodged the report which is online report alleging that, on 10.11.2023 when he had been to the office of Panchayat Samiti, informant along with the other co-accused assaulted him by means of iron pipe and also threatened him. It is further alleged that the informant was demanding commission amount of Rs.4,00,000/- which the present applicant has denied and, therefore, he was assaulted in the alleged incident. He sustained the injuries which is in the nature of nasal fracture. Learned Counsel submitted that as the present applicant has lodged report against the present informant and to give counterblast and to attract more gravity to the allegation. This allegation snatching of the chain is made against the present applicant. He submitted that the alleged offence under Sections 353 and 324 are punishable with less than imprisonment of seven years. The custodial interrogation of the present applicant is not required. Considering the injury sustained by the present applicant it reveals that, the present applicant was assaulted mercilessly by the informant and other family members.

In view of that, applicant be protected by granting anticipatory bail.

4. Said application is strongly opposed by the State as well as the informant on the ground there is a *prima facie* material against the present applicant. The golden chain is yet to be recovered. In view of that, application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. From the investigation papers it reveals that there was a dispute between the informant and the present applicant on account of the work allotted to the present applicant. As per the allegation by the informant Atmarama Janardhan Navghare, the present applicant has kept the work incomplete and was demanding the bill and, therefore, there was quarrel. Whereas, as per the allegation by the present applicant in the FIR lodged on his behalf by his maternal uncle that the present informant was demanding commission of Rs.4,00,000/- and he has already paid Rs.2,00,000/- and give assurance that he will pay the rest of Rs.2,00,000/- after he received the bill amount. But, he was assaulted by the informant and his family members and sustained the injury in the nature of nasal fracture. Thus, from the recitals of both the FIR, it reveals that out of the disputes as regard the bill and the commission amount alleged incident appears to have taken place. As far as the injuries sustained by the informant are

concerned, which are simple in nature, whereas the injury sustained by the present applicant are grievous in nature. Though it is alleged that present applicant has snatched the golden chain, but the statements of the witnesses which are recorded during the investigation only states that the informant was assaulted and his golden chain was snatched. There is no material to show that at the relevant time, the informant was wearing golden chain on his person. Considering the recitals of both the FIR and the circumstances under which alleged incident has taken place, it is apparent that present applicant has also sustained the grievous injury in the said incident. As far as the recovery of the golden chain is concerned, some conditions can be imposed on the present applicant. In the above circumstances, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Ganesh s/o Rajendra Varma** be released on anticipatory bail in the event of his arrest in connection with Crime No. 512/2023 registered with Police Station Malegaon, District Washim for the offence punishable under Sections 353, 332, 504, 506 and 394 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the Police Station once in week on Sunday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)