



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

CRIMINAL APPLICATION (BA) No.158 OF 2024

(Sukitram s/o. Bansi Rayesdar Vs. The State of Maharashtra, through PSO, PS Yashodhara
Nagar, Distt. Nagpur)

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

Court's or Judge's orders.

Mr. Y.S. Sheikh, Advocate for the applicant.
Mr. G.S. Umale, APP for non-applicant.

CORAM : G.A. SANAP, J.
DATE : 14th MARCH, 2024.

1. Heard finally.
2. The applicant-Sukitram Bansi Rayesdar, who is accused No.1, has filed this application under Section 439 of the Code of Criminal Procedure for grant of bail in a Crime bearing No.47/2023, registered with Yashodhara Police Station, Nagpur for the offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code.
3. Learned Advocate for the accused submitted that co-accused Nandlal and Sudama have been granted bail in this crime by this Court. Learned Advocate submitted that considering the role attributed to accused No.1 Sukitram, on the ground of a parity with Nandlal and Sudama he is entitled for bail. Learned Advocate submitted that after committal case to the Sessions Court charges have not yet been framed. Learned Advocate

submitted that the deceased and the informant initially went to the house of the accused and assaulted them. Learned Advocate submitted that the deceased and the informant Ramakant assaulted the accused persons with knife. The learned Advocate submitted that trial is not likely to complete in the near future and, therefore, incarceration of the accused for indefinite period is not warrant. The learned Advocate submitted that the accused is ready to abide by the conditions that may be imposed by the Court.

4. Learned Additional Public Prosecutor submitted that a specific role in the incident has been attributed to the accused. The accused had assaulted the deceased with knife. The deceased succumbed to the injuries. The learned Additional Public Prosecutor submitted that possibility of tampering with the prosecution evidence and pressurizing prosecution witnesses cannot be ruled out if he is granted bail.

5. In short, it is the case of the prosecution that the deceased and injured went to the house of the accused and abused and assaulted them. It is the case of the prosecution that four days prior to the incident father of the accused Bansi had questioned the deceased on the issue of parking of his vehicle. The deceased and the injured took it offensive and after four days went to the house of the accused and mounted the assault. The accused persons as can be seen from the record carried out a counter attack to save themselves and in this

process the deceased as well as the informant sustained injuries. A perusal of the record clearly indicates that the deceased and injured Ramakant were the initiators of the quarrel. The injuries sustained by the deceased has been attributed in the F.I.R. to Nandlal and in the statements of the witnesses subsequently to accused Sukitram.

6. The two accused in this crime have been released on bail. In view of this position and particularly the nature of the incident and the role played by the accused persons the ground of parity is available to this accused. The parity cannot be denied to this accused.

7. It is further seen that the charges have not been framed. The completion of trial will take its own time. In my view, keeping in mind the facts and material on record further detention of the accused Sukitram according to me is not warranted. He has made out a case for release on bail. The apprehension put forth by the prosecution can be taken care of by imposing appropriate conditions. Accordingly, I pass the following order :

ORDER

(i) The Criminal Application is allowed.

(ii) Applicant-Sukitram s/o. Bansirayesdar be released on bail in Crime No.47/2023, registered with Police Station Yashodhara Police Station, Nagpur for the offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code, on his

furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with solvent surety in the like amount before the trial Court.

(iii) The applicant shall not in any way tamper with the prosecution evidence.

(iv) The applicant shall not pressurize or threaten the prosecution witnesses.

(v) The Applicant shall not enter within the jurisdiction of Police Station Yashodhara Nagar, Nagpur till conclusion of the trial.

(vi) The applicant shall co-operate the learned trial Judge in the conduct of the trial.

8. The criminal application stands disposed of accordingly. Pending application, if any, stands disposed of.

(G.A. SANAP, J.)