



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

CRIMINAL APPLICATION (ABA) NO. 90 OF 2024

AYAZ S/O RAFIQUE SHEIKH
Vrs.
THE 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

Shri R. D. Dharmadhikari, Advocate for applicant.
Shri N. R. Rode, A. P. P. for respondent-sole.

CORAM: URMILA JOSHI-PHALKE, J.
DATE : 29/02/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.783/2023 registered under Section 324 r/w Section 34 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by one Kailas Ajabrao Kakde. It is alleged in the First Informant Report that the informant had been to have a dinner at Sakhi Bar and Restaurant, at the relevant time, present applicant approached to him and there was hot exchange of words between them, the applicant took out a sharp weapon knife and gave a blow of knife on his waist, due to which, he sustained grievous injury and immediately admitted to the hospital. On the basis of report, police have registered the crime against the present applicant.

3. Shri Dharmadhikari, learned counsel for the applicant submitted that now, the weapon is already seized and custodial interrogation of the present applicant is not required. He further submitted that the statements are also recorded by the Investigating Officer. There was money transaction between the applicant and the informant, out of which, the alleged incident has taken place. The informant is already discharged from the hospital and therefore, the applicant be protected by granting ad-interim protection.

4. Learned APP strongly opposed the said application on the ground that the injured had sustained grievous injury which was life threatening injury. Merely because the weapon seized is not sufficient to release the present applicant on bail. He submitted that considerations for grant of pre-arrest bail are different than bail under Section 439 of Code of Criminal Procedure. Considering the nature of the crime, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. During investigation, the Investigating Officer has recorded the statement of the injured shows that there was dispute between him and the present applicant on account of money transaction. The alleged incident has taken place on 29/09/2023 when the informant had been to Sakhi Bar and Restaurant for

having dinner. As per the allegation, the applicant took out the knife and gave a blow on his waist. The medical report collected during investigation shows that the injury was grievous in nature and if the patient did not receive medical treatment, he could have lost his life. The nature of the injury shows that it is stab injury to left lumber region. The statements of other witnesses are also recorded which show the prima facie case against the present applicant. Though the incriminating weapon is recovered, is not sufficient to hold that custody is not required. While considering the bail application, the nature of the offence and its gravity is also looked into. Considering that the applicant was carrying the sharp weapon along with him shows his preparation and he has given a blow by knife which caused the grievous injury on the lumber region of the informant sufficiently shows the prima facie case against present applicant.

6. Considering the above facts, the application deserves to be rejected. Accordingly, I proceed to pass following order :-

ORDER

7. The application is rejected.

[URMILA JOSHI-PHALKE, J.]