



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

CRIMINAL APPLICATION (ABA) NO. 530 OF 2024

Prashant s/o Uttam Meshram

Vs.

State of Maharashtra, Thru. PSO, PS Gondia City, Gondia

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. D.S. Kanwale, Advocate for applicant.
Mrs. M.A. Barabde, APP for non-applicant/State.
Mr. A.S. Band, Assist to prosecution.

CORAM : SMT. URMILA JOSHI PHALKE, J.

DATE : 08.08.2024

Apprehending the arrest at the hands of police in connection with Crime No.11/2024 registered with Police Station Gondia City, District – Gondia, for the offence punishable under Sections 307 r/w Section 34 of the Indian Penal Code and Sections 3 and 25 of the Arms Act, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by the injured Lucky Chhaganlal Yadao on an allegation that on 11.01.2024 at about 11:00 a.m. he was proceeding in his car towards Chirchar bandh and reached in front of Sawalani Grocery

Shop. At that time, he witnessed his Uncle Lokesh Yadao, falling down from the motor cycle. At the relevant time, he has also seen two persons proceeding on hero honda splendor motor cycle in a speed. At the relevant time, his uncle informed him by pointing out towards the persons, who proceeded on the motor cycle not to catch those persons, who have fired a bullet towards him but, he could not caught them and he took his uncle and the hospital. He has also described the description of the persons, who proceeded on the motor cycle. On the basis of the said, the crime was registered against the unknown person.

3. During investigation, the identity of the persons who fired shot by coming on the motor cycle was revealed, it was the co-accused Ganesh Sharma and Rohit Premlal Meshram. During investigation it further reveals that present applicant is one of the conspirator in the alleged incident. Therefore, the applicant is also arraigned as an accused in the above said crime.

4. Learned counsel for the applicant submitted that as far as the present applicant and his involvement in the conspiracy is concerned, there is no direct evidence to connect him with the alleged

offence. Merely, on the suspicion, on the statement of the co-accused, he is implicated in the alleged offence. He further submitted that, now, investigation is already completed, nothing is to be recovered from him and therefore, the custodial interrogation is not required. In view of that, he be protected by granting anticipatory bail.

5. Learned APP for the State strongly opposed the said application on the ground that the applicant is the one of the conspirator. Infact, he is the main conspirator and his involvement is revealed during the investigation. She invited my attention towards the various statements of the witnesses and submitted that the evidence collected by the Investigating Officers shows not only the involvement of the present applicant in the conspiracy but, he has assisted the co-accused by transferring the amount as well as helping them to fight themselves, for screening themselves from the punishment. She submitted that considering the role of the present applicant his custodial interrogation is required. In view of that, the application deserves to be rejected.

6. Mr. Band, learned counsel for the complainant also endorsed the same contentions.

7. After hearing the learned counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, the involvement of the present applicant is not a revealed. At the time of incident however, from the investigation papers, it reveals that he has engaged two persons i.e. Ganesh Sharma and the another co-accused and also helped them by providing them room in the lodge. The statement of Jiyalal Sakharam Baghele shows that he is working as a Manager in Jagananth Lodge at Gondia. From the statement, it further reveals that on 26.12.2023, he received a call of said Prashant Meshram as well as the two persons came in his lodge informed that they were sent by the present applicant and requested for one room. Accordingly, he has provided the room for said Ganesh Sharma and Akshay Mankar as well as the another co-accused. The statement of one Tekchand Vishnu Jotwani shows that present applicant has paid Rs.70,000/- and asked him to transfer the said amount to the account of said Ganesh Sharma, who is involved in actual firing the bullets on injured. There are other statements of witnesses also, which shows that present applicant has obtained various Sim Cards and by using the said Sim Cards, contacted with the assailants, the CDR reports, as

well as the statement of the witnesses shows the *prima facie* case against the present applicant. The considerations for grant of anticipatory bail are to be looked into which shows that while considering the application for grant of anticipatory bail, the severity of the punishment as well as the gravity of the offence is to be looked into.

8. Considering the same and the circumstances under which the alleged incident has taken place, which shows that the applicant has engaged two persons in eliminating the injured and accordingly, the contract was accepted by the co-accused and in view of the agreement, the co-accused have fired the bullet on the deceased and the deceased had sustained grievous injuries. The medical certificate also shows that deceased has sustained the gunshot injury along with the entry wound on his persons. The account statements, the CDR reports and various statements of the witnesses shows the involvement of the present applicant. Considering the *prima facie* case made out against the present applicant, the application deserves to be rejected. Accordingly, the application is rejected.

(SMT. URMILA JOSHI PHALKE, J.)