



IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

SESSIONS TRIAL NO. 60/2024.
(CNR NO.MHGO010009902024)

State, PSO, Gondia City -VS- Avinash Khobragade+2

ORDER BELOW EXH. 02.

(Passed on this 11th day of October, 2024)

Seen application.

2. In the instant case, investigation is complete and that charge-sheet is filed.
3. Applicant/accused No.2 Avesh Kanhaiya Chatre has claimed regular bail under Sec. 483 of BNSS, 2023 in connection with Crime No. 261/2024 registered with Police Station, Gondia City for the offence punishable under Sec. 307, 504, 34 of IPC.
4. Applicant/accused who is Magisterial custody was arrested on 26/04/2024.
5. In a nutshell, it is the prosecution's case that, on 20/04/2024 at 8.00 p.m. informant had been to the Khatriya Maratha Kalar Samaj Bhawan, Bajpai Chowk, Gondia to

attend marriage. At about 10.20 p.m. bridegroom came there along with DJ music. However, music was stopped. Suddenly, 2-3 boys came and told to the informant that some of the persons from sweeper colony have asked to start playing DJ music again and also requested him to accompany them to the said Samaj Bhawan.

6. Therefore, the informant went along with those boys at the said place and told the applicant, Kalu Chatre and two persons who were with them that it is already 10.00 p.m. and its time to stop playing DJ. Therefore, the applicant and the other co-accused started quarrel with informant and that applicant took out knife and assaulted on the head and face of the informant. Similarly, Kalu Chatre assaulted him on the chest by means of knife.

7. Two unknown persons who were with applicant and Kalu abused informant and gave him fist and kick blows. Therefore, informant fled to the marriage pendol. Applicant, Kalu and two persons followed the informant and again assaulted the informant at the pendol. Therefore informant went to KTS, Hospital where he was treated and subsequently referred to Sahyog Hospital for further treatment. As such, the informant lodged report of incident to P.S. Gondia City. On the basis of the said report Crime No.261/2024 is registered

against the applicant and other co-accused under Sec. 307, 504, 34 of IPC.

8. Heard learned advocate for the applicant and learned A.P.P. Perused documents, F.I.R. and charge-sheet.

9. Learned advocate for the applicant has argued that the investigation is completed and charge-sheet is already filed. He has further argued that one of the co-accused Avinash Shivram Khobragade is enlarged on bail. Further it is argued that there are material contradictions in the prosecution's case. In this connection, he pointed out that initially statement of injured was recorded in hospital. Wherein he has not named any of the accused. He has stated that eight persons assaulted him. Thereafter, in the F.I.R. for the first time name of present applicant is mentioned and that certain role is attributed as against the present applicant/accused and other co-accused.

10. Further, it is contended that in the statement of witnesses recorded by police under Sec. 161 of Cr.P.C. and statement of the same witnesses that recorded under Sec. 164 of Cr.P.C. reveals that there is substantial variance. It is also contended that T.I parade conducted is improper. Further, the T.I. parade is not reliable in as much as all the accused

persons were compelled to stand in a row. Interestingly, as per the F.I.R. the the informant has named the accused persons even then T.I. parade was conducted. In other words, considering the evidence available on record, applicant be enlarged on bail. He has also argued that applicant cannot be kept in judicial custody for indefinite period of time.

11. Learned APP on the other hand has contended that contention urged by the applicant is hyper technical. On very small issue of not allowing music on DJ after 10.00 p.m., the applicant has brutally assaulted the informant using knife. That apart, applicant followed the informant and also assaulted him. This conduct on part of applicant demonstrate his intention to finish and or kill the informant.

12. Learned APP further has argued that in the entire bail application moved by the applicant, applicant has nowhere stated that Sec. 307 of IPC which provides punishment of 10 years which may extend to life imprisonment is not attracted. In fact, at this early stage applicant has raised technical contentions. Even if the said contentions are taken as it is, then in that event also prosecution is having very strong case, informant is injured eye witness.

13. That apart, there is discovery of knife at the instance of accused Avinash Khboragade. In the said disclosure statement he has specifically narrated role of present applicant and other co-accused. Further, while granting bail to Avinash Khobragade, this court has categorically mentioned that discovery of knife used by the applicant to assault the informant is at the instance of the said co-accused Avinash Khboragade. Further, there are other eye witnesses also. As such, according the learned APP, if the applicant is enlarged on bail, then in that eventuality he will try to influence the prosecution witnesses. In order to buttress the said contention, learned APP has submitted that applicant is having previous criminal antecedents.

14. Under these circumstances, on perusal of charge-sheet I find force in contention urged by learned APP. It can be seen that the allegations made against the applicant are very serious. Further, there is discovery of knife at the instance of Avinash Khboragade. That apart, informant is injured eye witness. There are other witnesses also who were present at the spot of incident. Further, reply filed by police and adopted by learned APP depicts that there are as many as 20 criminal case are pending against the applicant.

15. Therefore, if the applicant is enlarged on bail at this juncture, then there are chances that he may influence the prosecution witnesses including the co-accused at whose juncture there is discovery of knife used during the said incident. Hence, at that stage, I am not inclined to enlarge the applicant on bail. Hence, the following order.

ORDER

Application [Exh.02] is hereby rejected.

Gondia.
Dated: 11.10.2024.

(A. S. Pratinidhi)
District Judge-1 & ASJ,
Gondia.

Dictated on	: 11/10/2024
Transcribed on	: 11/10/2024
Checked by the Judge	: 14/10/2024
Finally printed & signed by the Judge	: 14/10/2024