

In the Court of Sessions Judge, Wardha.

Sessions Case No.108/2022

Manges@ Ganesh Uike ..Vs.. State (PS Deoli)

CNR No. MHWR01002111-2022

Order Below Exh-3.

(Passed on 05/01/2023)

1] This is an application under section 439 of Code of Criminal Procedure in connection with Crime No.744/2022 of Deoli Police Station.

2] Applicant is resident of Palasgaon. He is labour. He is maintaining his family. He was arrested on 03.08.2022 and since then he is in jail. According to him, there is dispute between family of applicant and family of injured on the count of boundaries of field. Police have already discharged three co accused for want of evidence which creates doubt about allegation against this applicant. Informant who is cousin of injured has deliberately implicated this applicant. Investigation is over. Both the injured witnesses are discharged from the hospital. Their custody is not necessary.

3] Prosecution has filed reply at Exh.4. According to them, informant has alleged that this applicant dealt blow of knife over back of Vaibhav and over the chest of Prashant and other co accused beat Vaibhav by sticks. Clothes on the person of injured and their blood sample is seized. Weapon knife is seized at the instance of this applicant. This applicant is committed offence on the count of dispute of issue of alcohol. Prosecution has objected the application on the ground that applicant may pressurize witnesses and may commit similar offence.

4] Learned advocate for the applicant has submitted that informant has alleged about involvement of other three co accused in the report but in subsequent statement he has stated that he stated the names of other three co accused due to misunderstanding. The cause for dispute has stated in the report and in the reply of prosecution appear to inconsistent. There are no criminal case against this applicant. His detention is not necessary.

5] Learned APP has submitted that the accused has caused injuries on the vital part of the body of the injured Prashant and Vaibhav. In case if he is released on bail he may pressurize the witnesses.

6] The report is filed by one Jagdish, who is cousin of injured Vaibhav and Prashant. He has stated about the role of this applicant of blow by knife over the person of Vaibhav and Prashant. Informant has stated about beating by sticks by other co accused. But, subsequently in the statement the informant has stated that he has stated the names of other three co accused due to misunderstanding and has only seen the present applicant while giving blow of knife over the person of Vaibhav and Prashant.

7] Learned advocate for the applicant has invited my attention about inconsistency in two statements of PW Prashant recorded in the hospital. Those are recorded on 02.08.2022 and 20.08.2022. In first statement dated 02.08.2022 injured Prashant has stated about involvement of other three co accused. In another statement dated 20.08.2022 he has just stated about complicity of this applicant only. In the first statement dated 02.08.2022 witness Prashant has stated that Vaibhav had gone to his cattle shed and after sometime Prashant

went there. But in subsequent statement dated 20.08.2022 he has stated about hearing of quarrel due to which he went to the cattle shed where only this applicant was beating Vaibhav. Injured Viabhav has stated about his presence with Prashant at cattle shed at the relevant time alongwith informant.

8] It appears from the police papers that the allegation about blow of knife by this applicant over the chest of witness Prashant and over the back of his younger brother Vaibhav. Discharge card shows a stab wound over the back of Vaibhav and stab injury over the chest of Prashant. The police papers in the charge sheet shows that both the injured Viabhav and Prashant are discharged on 07.08.2022 and 23.08.2022 respectively. The reply of the prosecution does not reveal about any criminal antecedent at the credit of this applicant. Investigation is already over and the charge sheet is filed. So, further detention of the applicant may not be warranted. Only objection of the prosecution is that the applicant may pressurize the witnesses. It appears that the applicant is doing labour work. So far as apprehension of prosecution is concerned, certain stringent condition can be imposed. Accused is in jail since lost about five months. Accordingly he has to maintain his family members. Considering the facts discussed above it would be proper to allow the applicant by imposing certain conditions. Hence, the order :

Order

- 1] The application is allowed.
- 2] Applicant Mangesh@ Ganesh s/o Laxmanrao Uike be released on bail on executing his P.R.Bond of Rs.30,000/- with surety bond in the like amount in one or more sureties in connection

with Crime No.744/2022, Police Station, Deoli for the offence punishable under section under section 307,504,109 r/w section 34 of IPC, on following conditions :

- i) He shall not pressurize the informant and witnesses and shall not tamper with the prosecution evidence.
- ii) He shall not enter in village Palasgaon, Tah. Deoli, Dist. Wardha till the concluding of trial.
- iii] He shall not indulge himself in similar type of offence.

Wardha

Date : 05/01/2023

(Ashutosh N. Karmarkar)
Sessions Judge, Wardha

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word, as per the original order.

Name of Stenographer	:	G.M.Shaikh (Grade-I)
Court	:	Principal District and Sessions Judge, Wardha
Date	:	05/01/2023
Order signed by the Presiding Officer on	:	05/01/2023
Order uploaded on	:	06/01/2023