

Order below Exh.1 in Cri. Bail Application No.127/2022.

{ Bharat Jairam Wagh and others Vs. State }

This is application under section 439 of the Criminal Procedure Code for grant of bail pending trial.

2. The present application is moved by the applicants-accused 1) Bharat Jairam Wagh, 2) Anand Nandlal Somvanshi, 3) Suraj Digamber Pandit and 4) Nana Dinkar Dhoom praying to release them on bail in connection with the CR No.12/2022 registered with Vani Police Station under section 392,395,324, 325, 504, 506,188,170,171 r.w.s.34 of the Indian Penal Code and section 37(i)/135 of the Maharashtra Police Act. It is alleged that on 24.1.2022 the first informant Ganesh Yashwant Deshmukh was assaulted by the accused at Jagdamba Mata Temple, Kasbe-vani, Tal. Dindori, Dist. Nashik, who sustained grievous injury in the scuffle. The accused were arrested by the police and produced before the learned JMFC, Dindori. Initially accused were remanded to police custody and at present they were in MCR.

3. It is alleged in the application that, applicants-accused are local resident. They have not committed any offence as alleged in the FIR. They are ready to abide all conditions laid down by this court. A counter FIR appears to be lodged by applicant-accused Bharat Jairam Wagh against first informant regarding the same incident. Therefore, prayed to release the applicants-accused on bail.

4. I.O. PSI R.N. Bharsat is present. He opposed the bail application by filing his say. Heard, both the parties.

5. The learned counsel Shri. R.Y. Patil submitted that on

bare perusal of the FIR, Section 395 and 392 of IPC is not attracted and submitted that due to political rivalry applicants-accused have been falsely implicated in this crime. Nothing is recovered from the applicants-accused during police custody. No purpose would be served by keeping the applicants-accused behind the bar. Therefore, prayed to release the applicants-accused on bail.

6. The learned APP Shri. Suryavanshi submitted that, offence is serious, injured has suffered grievous injury. Investigation is in progress. Other accused are absconded. They have to be arrested. therefore, bail application may not be entertained.

7. The learned counsel Shri. R.K. Lokhande submitted that the injured has suffered grievous injury and he is still hospitalized in Krushna Hospital, Nashik and taking treatment and therefore, he submitted that accused may not be released on bail, considering the gravity of the offence.

8. On perusal of the FIR, it appears that a free fight took place due to the parking of two wheeler and the incident had occurred on a spur of moment. So far as applicability of Section 395, 392 of IPC is concerned, prima-facie for the purpose of deciding this bail application, the intention on the part of the accused did not disclose that they have committed dacoity or robbery as alleged by the prosecution in temple place and particularly accused are of the same village and both the parties are acquainted to each other. Therefore, prima-facie, only section 325 of IPC is applicable to the fact of present case. No purpose would be served by keeping the accused behind the bar. The necessary conditions can be levelled against them to take care of the apprehension of the I.O. and learned counsel represented for first informant. Considering this fact, I an inclined to grant bail

application. Hence, following order is passed.

ORDER

1. Application is allowed.
2. Applicant-accused No. 1) Bharat Jairam Wagh, 2) Anand Nandlal Somvanshi, 3) Suraj Digamber Pandit and 4) Nana Dinkar Dhoom, in connection with the CR No.12/2022 registered with Vani Police Station under section 392,395,324,325,504,506,188,170,171 r.w.s.34 of the Indian Penal Code and section 37(i)/135 of the Maharashtra Police Act, be released on bail on executing bond of Rs.30,000/- each with one or two sureties in like amount.
3. They shall not abscond or tamper with the witnesses.
4. They shall furnish their address proof aadhar card of their two near relatives alongwith mobile numbers.
5. They shall not enter into the jurisdiction of Vani Police Station, till filing of charge-sheet, except to attend the Vani Police Station regarding the investigation purpose as and when required by the Investigating Officer and in connection with the investigation of the counter case registered with the Vani Police Station arising out of same incident.
6. In the event of breach of any of the conditions, their bail bonds shall be liable to be cancelled.
7. Bail in lower Court.

Date: 01.02.2022

(M. A. Shinde)
Additional Sessions Judge-8,
Nashik.