

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1765 OF 2015

Ajit Pandurang Powar .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.C.G.Patil, Advocate, for the Applicant
Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 20.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.81 of 2015 registered with the Juna
Rajwada Police Station, Kolhapur, for the
alleged offences punishable under Sections 307,
323, 504 r/w.34 of the Indian Penal Code.

3. At the outset, it would be pertinent to note, that P.I. - Pandurang Tukaram Patil, Juna Rajwada Police Station, Kolhapur had made an incorrect statement on 12.10.2015 that charge-sheet has been filed. In view of the statement made by P.I. - Patil, learned counsel for the applicant did not press the application and sought leave to withdraw the said application, with liberty to approach the trial Court. Accordingly, on 12.10.2015, an oral order was passed recording the same and disposing of the application. However, before the said order could be signed, learned counsel for the applicant mentioned the matter and pointed out to this Court that the said statement made by P.I. - Patil was incorrect and that no charge-sheet has been filed. The said statement made by the learned counsel for the applicant was not disputed by the learned APP and hence, the matter was kept today. The oral order which

was passed on 12.10.2015 stands re-called, in view of the incorrect statement made by P.I. - Patil.

4. The incident in question has taken place on 20.04.2015 at about 11.00 p.m.. It is alleged by the complainant - Suraj Hanmantrao Sakhare that he had gone to watch the procession of "Shiv Jayanti" along with his three friends. It is alleged that the applicant along with his three friends i.e. Rohan Powar, Subhash Zambare and Vishal Shiralkar came near the complainant and his three friends. According to the complainant, the applicant was carrying a sword as well as a weapon like a revolver, which he gave to Subhash Zambare and asked him to kill the complainant. It is alleged by the complainant, that Subhash Zambare pointed the revolver at him, but did not fire any bullet. It is alleged by the complainant that when he and

his three friends tried to escape, Rohan Powar and Vishal Shiralkar held him and the applicant assaulted him on his forehead and nose by sword and Rohan Powar and Vishal Shiralkar are alleged to have assaulted him by fist and kick blows. It is alleged that after the said assault, the applicant and other co-accused fled from the spot.

5. Learned counsel for the applicant submitted that with respect to the same incident dated 20.04.2015, the applicant has also lodged a complaint as against Suraj Hanmantrao Sakhare(complainant in the aforesaid C.R.), which was registered vide C.R.No.80 of 2015 with the same police station, for the alleged offence punishable under Section 307 of the Indian Penal Code. He submits that the applicant has been falsely implicated in the said case. According to the learned counsel for the applicant, the

applicant was an office bearer of the Shiv Jayanti Committee and hence was present in the said procession, when the complainant and others came to the spot and assaulted the applicant and others. He submitted that in the said incident, the applicant has received injuries on his head, right eye suturing outside for CLW (2 x 3 cms) and swelling over his Right Cheek/Infra Orbital region. He submits that one Kedar Gandhi has also received an injury inasmuch as, he has sustained fracture of his right distal end radius and right lunate of wrist.

6. Learned APP opposed the bail application. Today, P.I. - Patil is present in Court. Learned APP on the instructions of P.I. - Patil states that he had made an incorrect statement on 12.10.2015, as he was confused. She states that charge-sheet was filed not in the present C.R. but in C.R.No.80 of 2015, lodged by

the applicant. Both, the investigating officer and the learned APP do not dispute the fact that the statement that was made on 12.10.2015, was an incorrect statement.

7. Perused the papers including the FIR, lodged by the applicant which was registered vide C.R.No.80 of 2015 and by the complainant which was registered vide C.R.No.81 of 2015. Perused the Injury Certificate of the complainant Suraj Hanmantrao Sakhare in C.R.No.81 of 2015 and the Injury Certificates of the applicant and Kedar Gandhi. All of them have sustained injuries. There are cross cases filed by both the parties with respect to the same incident. It appears that there is some political rivalry between the parties.

8. Considering the nature of allegations and the fact that the applicant has been in

custody from 17.08.2015, the applicant is enlarged on bail on the following terms & conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Juna Rajwada Police Station, Kolhapur on every Saturday between 11:00 a.m. to 11:00 a.m. till the filing of the charge-sheet and thereafter, on the 1st Saturday of every month between 11:00 a.m. to 11:00 a.m. for a period of 12 months from the date of filing of the charge-sheet;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or

change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)