

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.286 OF 2015

Meghnath Gurunath Tavadan @ Pillay	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. Shailesh D. Chavan, for the Applicant.
Mr. D.P. Adsule, APP, for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **MARCH 19, 2015**

PC.:

. Application is made for bail as the applicant/accused is facing charge for the offence punishable under Sections 307, 326 and 504 read with 34 of Indian Penal Code in C.R. No. 88 of 2014 registered at Mundhwa police station, Dist. Pune.

2. It is the case of the prosecution that applicant/accused and the complainant Rajesh Nandu Dodke had some altercations and the applicant/accused suddenly started assaulting the complainant with knife and the complainant got injured. The associates of the applicant/accused also arrived and threw stones on the complainant.

3. The learned counsel for the applicant/accused submits that there is a cross case lodged by the applicant/accused against the complainant. It is at C.R. No.87 of 2014 at Mundhwa police station, Pune. In that case, the complainant assaulted the applicant/accused and there was a stab wound on the neck of the accused. He produced the medical certificate of the applicant/accused disclosing that there was stab wound and so also other injuries on his person. He submitted that in that case Rajesh Dodke is released on bail and therefore this accused also to be released on bail.

4. The learned prosecutor while opposing this application relied on the medical certificate of the complainant disclosing that there were 4 wounds. The prosecutor also pointed out that applicant/accused is having criminal antecedents. The order of externment was passed against him for a period of one year from 13-08-2012. He pointed out that a case of murder of brother of the complainant is registered against the applicant/accused and the said case is pending.

5. While meeting with the arguments of the criminal antecedents at the stage of bail, the learned counsel for the applicant/accused relied on the case of *“Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh”*¹.

1. (2012) 2 Supreme Court Cases 382.

6. There are criminal antecedents against the applicant/accused. There was also an order of externment for a period of one year. He is facing the charge of murder of the brother of the complainant. In the case relied by the learned counsel for the applicant/accused, the Hon'ble Supreme Court has considered that appellant in the said case was the accused in number of cases. He was also facing charge under Sections 302 and 307 of Indian Penal Code. The Court has observed that merely on the basis of criminal antecedents, the claim of the accused can not be rejected but it is the duty of the Court to find out the role of the accused in the case in which he has been charged. However, the Supreme Court while releasing the said accused on bail, have also considered the relevant factor that the accused had been in the jail since 24-08-2009 and he was released in January, 2012.

7. In the present case, the applicant/accused is arrested on 20-06-2014 and he is in prison since last 9 months. He is facing the charge of committing murder of brother of the complainant. The injuries caused to the complainant though they are 4 incised wounds, some of them are on vital part.

8. In view of this, the ratio laid down in the case of Maulana

Mohammed Amir Rashadi (supra) is distinguishable, considering the facts of this case. Hence, I reject the bail. However, liberty to the applicant/accused to move fresh bail application if the trial does not commenced within six months.

9. Bail Application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)