

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.2622 OF 2014

Nilesh alias Nilya Manoj Kamble	...Applicant
Vs	
State of Maharashtra	...Respondent

Mr. Moin Khan i/b Ms Anjali Awasthi for the Applicant
Mrs. A.A. Mane, APP for the Respondent-State.

CORAM: P.D. KODE, J.

DATED: JANUARY 29, 2015.

P.C.:

By this application accused No.1 in charge-sheet submitted by Nehru Nagar Police Station for commission of offence punishable under sections 143, 144, 146, 147, 148, 149, 307 and 427 r/w section 34 of the IPC, has prayed for bail.

2. Mrs. A.A. Mane, learned APP has vehemently objected the application on the count that the involvement of the Applicant is not only borne from the statement of victim/ informant but also from statement of another injured and other eye witnesses. It is submitted that account of incident as reflected from FIR and said material reveals that not only the Applicant was involved in commission of the crime but he was the main perpetrator behind commission of such

offences by members of unlawful assembly. It is submitted that the Applicant is having antecedents and so also there is a material in the shape of recovery of sword at his behest. It is thus, contended that prayer for bail may not be accepted.

3. Mr. Moin Khan, learned counsel for the Applicant has pressed the prayer for bail on the ground that investigation is complete and charge-sheet has been filed and all the other co-accused except the Applicant has been released on bail. It is submitted that even accepting the fact that the incident was outcome of earlier incident occurred in between the Applicant and the other members working in the said hotel still accepting the said fact the case of the Applicant cannot be said to be on much higher pedestal than the other co-accused released on bail. It is submitted that the FIR reveals that except giving one blow upon the first informant the Applicant had not assaulted any other person during the incident. It is submitted thus, considering the account of incident in its proper perspective it is clear that the Applicant was not entertaining any intention to commit murder of the first informant or the owner of hotel and the incident was outcome of a rage due to occurrence of earlier incident. It is submitted that the prayer may be considered on terms and conditions deem fit and proper by the Court. Learned

counsel for the Applicant has made statement that injured is out of danger.

4. Learned APP was not able to refute the said statement in view of the absence of I.O. Having regard to it and having regard to the fact that offences for which the Applicant is charge-sheeted are not exclusively punishable for death and /or imprisonment for life the prayer for bail will deserve consideration. It appears accordingly as even accepting the fact that the incident has taken place in a hotel, apparently same appears to be on the count of rage due to occurrence of earlier incident. However, considering the fact that the lethal weapons were used during the incident it appears proper to impose certain conditions while acceding the prayer for bail.

5. Resultantly, the application is allowed. The Applicant is directed to be released on bail in C.R. No.91 of 2014 registered with Nehru Nagar Police Station on furnishing the P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one or more sureties to make up like amount and subject to conditions that after his release the applicant shall (i) not enter the area of Greater Bombay save except for attending the dates fixed in a case against him and even on the said dates he shall not enter the area under the jurisdiction of Nehru Nagar Police Station; (ii) inform his place of

abode to I.O. and shall attend the local police station for the said area on every Monday in between 11:00 a.m. to 1:00 p.m. until further order; (iii) not indulge in activity of tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; and (iv) not misuse the bail granted vide this order for fleeing away or for committing any further offence; (v) bail granted to the Applicant shall stand automatically cancelled in event of the Applicant breaching the condition of not entering area of Greater Bombay imposed vide clause (i).

6. The application accordingly stands disposed of.

(P.D. KODE, J.)