

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 689 OF 2016**

Thagan s/o Devrao Bhagwat Patil,  
Age: 35 years, Occ: Agril.,  
R/o. At & Post Bhaigaon,  
Tq. Sillod, Dist. Aurangabad. ...Applicant

versus

The State of Maharashtra  
Through the Commissioner of Police,  
Aurangabad. ...Respondents

WITH

**CRIMINAL APPLICATION NO. 1038 OF 2016  
IN  
CRIMINAL APPLICATION NO. 689 OF 2016**

Sunita Ishwarlal Bhansali,  
Age: 42 years, Occ: Household,  
R/o. Parimal Housing Society,  
Garkheda, Aurangabad. ...Applicant

versus

The State of Maharashtra  
Through Mukundwadi Police Station,  
Aurangabad & anr. ...Respondents

.....

Mr. S.G. Ladda, Advocate for applicant in Criminal  
Application No.689 of 2016  
Mr. S.M. Ganachari, A.P.P. for respondent/State  
Mr. Sushil Biyani, Advocate to assist A.P.P.

.....

**CORAM : N.W. SAMBRE, J.**

**DATE : 16th FEBRUARY, 2016**

**ORAL ORDER :**

For the reasons stated in the application, Criminal

Application No. 1038 of 2016 seeking permission to assist A.P.P. stands allowed.

2. The applicant is seeking regular bail in Crime No. I-478 of 2015 registered on 25/07/2015 with Mukundwadi Police Station, District Aurangabad for the offence punishable under Sections 307, 452, 323, 504 of Indian Penal Code.

3. The incident as is alleged took place on 09/11/2012, for which the offence came to be registered on 25/07/2015 i.e. after almost period of three years.

4. The prosecution case against the present applicant is that the applicant on the date of incident visited residential house of the complainant. The applicant-accused under the influence of liquor assaulted the complainant and has also pushed the daughter of complainant from the second floor resulting into causing grievous injury to her. The said act on the part of applicant is claimed to be murderous assault on the daughter of complainant. The complainant has also narrated certain monetary transactions in between the applicant and complainant and it is claimed that the applicant was earlier in the employment of the complainant as a driver.

5. While trying to make out the case for grant of bail, Mr. Ladda, learned Counsel for the applicant would urge that false implication of the applicant in the crime in question as is apparent from the narrations as are reflected in the F.I.R. and the date of lodging of F.I.R. He has invited my attention to the contents of F.I.R., wherein it is stated that alleged incident took place on 09/11/2012 at around 9-00 p.m. The F.I.R. as is lodged under the signature of complainant dated 25/07/2015 and offence is registered pursuant to the said complaint after period of three years. He has invited my attention to the fact that investigation in the matter is already completed and charge sheet is filed, and as such, he submits that further detention of the applicant is not necessary in the crime in question.

6. According to him, the perusal of contents of charge sheet would depict that the applicant is falsely implicated in the crime, as the applicant has not honoured demand of money as was made by the complainant, particularly in the background of narrations in the F.I.R. He would then invite my attention to the statements of Dr. Vajrapani Patil and Dr. Narendrakumar Kapahtia. It is the prosecution case that the complainant's daughter was initially taken to Sainath Hospital, Aurangabad of Dr. Vajrapani Patil on 09/11/2012 and daughter of complainant was diagnosed for fracture to heel.

7. Subsequently, the daughter of complainant was shifted to Shree Krishna Orthopaedic Hospital, Aurangabad of Dr. Narendrakumar Kapahtia, who claims to have performed surgery on the daughter of complainant, which fact perhaps found to be the basis for registration of offence punishable under Section 307 of Indian Penal Code.

8. Both these statements of Doctors were recorded on 31/07/2015 and 01/08/2015 i.e. almost after three years of the incident and administration of treatment of daughter of complainant. He would then urge that there are series of offences registered against the applicant pursuant to the complaints filed by present complainant in view of their differences. According to him, the applicant is entitled for bail in the above referred background. In addition to above, Mr. Ladda, learned Counsel for the applicant has invited my attention to the various applications preferred by wife of applicant to the police authorities i.e. Special Inspector General of Police, Aurangabad Region, Superintendent of Police, Aurangabad Rural, Aurangabad pointing out, likelihood of false implication of the applicant and his family members in the crime in question.

9. Learned A.P.P. while strenuously opposing the

application would urge that there is evidence collected during the investigation as regards *prima facie* involvement of applicant in crime in question. Amongst others, he has relied upon the evidence of Doctors and contents of F.I.R., to substantiate his claim for rejection of bail. He would then urge that in the earlier offence though the applicant was released on bail, the applicant has tried to jump the bail conditions and has invited attention of this Court to the observations made by learned Sessions Court while rejecting bail in the present matter, particularly in para-9 of the order.

10. He would then urge that the applicant is a person with strong muscle power and holds political will in Sillod Taluka and as such, there is every likelihood of pressurize the witnesses or tamper with the prosecution evidence. Apart from above, it is claimed that the applicant is in habit of threatening the complainant either by issuing S.M.S. or phone calls and reliance is placed on text messages to that effect which are part of charge sheet.

11. Heard Mr. Biyani, learned Counsel for the complainant. According to him, at the behest of complainant, in all five offences are registered against the applicant, which speak of criminal antecedents against the present applicant. He would then urge that investigation in the matter depicts sufficient evidence as against the

applicant of his *prima facie* involvement in the crime in question. He would then urge that F.I.R. cannot be treated as encyclopedia of the entire incident and charge sheet is required to be read as whole against the applicant which constitute *prima facie* case against him. He would then urge that in view of criminal history of present applicant and his conduct as regards jumping bail conditions disentitles him to be released on bail. He invited my attention to the certain documents which were placed on record during course of hearing so as to demonstrate the threats issued either in the form of S.M.S. or through phone conversation to the complainant. He would then urge that the application be rejected.

12. Having bestowed my anxious thought to the submissions made, it is required to be find out whether the applicant has made out case for grant of regular bail. It is rather not disputed that the investigation in the matter is already complete and charge sheet is filed. The offences for which the charge sheet is filed in the present case are punishable under Sections 307, 452, 323, 504 of Indian Penal Code. Offence punishable under Section 307 of Indian Penal Code is punishable with maximum punishment of imprisonment for life. It is required to be noted that the background of attracting offence punishable under Section 307 of Indian Penal Code in the light of narrations of F.I.R. if are analyzed, what is noted is daughter

of complainant was claimed to have been pushed from the second floor of house by the applicant which has resulted into fracture to her ankle/heel. The fracture thereafter was treated from two Doctors, whose statements depict injury as was suffered by the daughter of complainant. The issue that is required to be looked into is an act would *prima facie* attract to the offence punishable under Section 307 of Indian Penal Code in the present case. In my opinion, the applicant has been booked for the offence punishable under Section 307 of Indian Penal Code is entitled for bail in view of following reasons:-

- (a) that the F.I.R. came to be registered after period of three years,
- (b) Doctor's statements depict that treatment was administered to the daughter of complainant, however, daughter of complainant has not narrated to both the Doctors as regards cause as is cited in the F.I.R. which has resulted into sufferance of injury to her.

Though it is claimed that daughter of the complainant was pushed from second floor of her house, however, except the fracture as claimed, no other injury was suffered. Hence story in the F. I. R. appears to be improbable.

- (c) the investigation in the matter is already complete and charge sheet is filed. The statement is made by applicant that he holds immovable property and there is hardly any likelihood of running

away from Court procedure.

13. It is required to be noted that the bail is opposed also on the ground that the applicant has jumped conditions of bail. Though reliance is placed on S.M.S. and telephone calls, however, it is brought to my notice that the issue about S.M.S. is already subject matter of prosecution vide Crime No. 172 of 2014 in which the applicant is already released on bail. So far as alleged call from the office of APMC to the present complainant is concerned, the same was issue already looked in to by investigating agency.

14. In this background, looking to the nature of investigation as has been carried out in the present case and particularly iota of evidence is available against the present applicant, the applicant is entitled for bail on the following conditions :-

(a) The applicant be released on bail in connection with Crime No. I-478 of 2015 registered with Mukundwadi Police Station, District Aurangabad for the offence punishable under Sections 307, 452, 323, 504 of Indian Penal Code, upon furnishing P.R. bond of Rs.25,000/- with two sureties in the like amount,

(b) the applicant shall not enter the jurisdiction of Commissionerate area of Aurangabad till conclusion of trial but for

attending Court proceedings and if called for by the Investigating Officer for further inquiry,

(c) the applicant shall not tamper with the prosecution evidence.

5. Criminal Application No. 689 of 2016 stands allowed in above terms.

**[ N.W. SAMBRE, J. ]**