

(1)

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

CRIMINAL APPLICATION NO. 3257 OF 2016

Govind s/o Pandit Sonawane ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr N. S. Ghanekar, Advocate for applicant;
Mr S. Y. Mahajan, Addl. Public Prosecutor for respondent;
Mr Girish Nagori, Advocate for complainant

CORAM : N.W. SAMBRE, J.

DATE : 25th July, 2016

ORDER :

The applicant is seeking his release on regular bail, in connection with Crime No. 30 of 2016, registered with Shani Peth Police Station, Tq. & Dist. Jalgaon, for offences punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code, under Section 4/25 of the Arms Act and under Sections 37 (1)(3), 135 of Bombay Police Act.

2. The prosecution story is that the applicant assaulted complainant Satish Milind Gaikwad with a sword, resulting into causing injuries to his neck.

3. While trying to make out a case for grant of regular bail, Mr Ghanekar, learned Counsel appearing on behalf of the applicant would

(2)

submit that apart from un-explained delay of about 11 days in lodging first information report, the story put forth by the informant appears to be improbable. He would invite attention of this Court to visit of complainant Satish to the concerned Police Station on 8th May, 2016, which resulted into registration of Crime No. 27 of 2016 against the present applicant. He would then submit that, in view of earlier enmity, false implication of the applicant cannot be ruled out.

4. Learned Additional Public Prosecutor, who is assisted by Mr Girish Nagori, learned Counsel appearing on behalf of the complainant strenuously opposed the application on the ground that the offence is serious one and is punishable with sentence of above seven years. He would then submit that there are C.C.TV footage, which reflects involvement of the applicant in crime in question. Apart from above, according to the learned Additional Public Prosecutor, the material on record depicts prima facie involvement of the applicant in crime in question.

5. Having perused the investigation papers, it is to be noted that the alleged incident is of 5th May, 2016, for which first information report came to be lodged on 16th May, 2016. Though delayed first information report is sought to be substantiated with reasons, however, same, if are tested in the light of visit of the complainant Satish to the police station on 8th May, 2016, which resulted into registration of Crime No. 27 of 2016, against the present applicant, falsifies the same.

(3)

6. Apart from above, investigation papers do not depict the claim of the prosecution about the injuries suffered by the complainant. Perusal of the injury certificate dated 16th May, 2016, does not speak of any such injuries suffered by the complainant, as has been alleged in the first information report dated 5th May, 2016. The Injuries as are suffered by the complainant, are of five days old and as such same injuries mentioned in the injury certificate cannot be related to the incident of 5th May, 2016.

7. Apart from above, enmity as mentioned in the first information report, can draw a conclusion that there could be false implication of the applicant.

8. In the above background, the applicant is entitled to be released on bail. Hence, I pass following order :

(a) The applicant, in connection with Crime No. 30 of 2016, registered with Shani Peth Police Station, Tq. & Dist. Jalgaon, for offences punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code, under Section 4/25 of the Arms Act and under Sections 37 (1)(3), 135 of Bombay Police Act, be released on bail, on furnishing P.R. Bond of Rs 25,000/- with one surety in the like amount.

(4)

(b) The applicant shall keep himself away from the jurisdiction of the concerned Police Station, till filing of the charge-sheet.

(c) He shall not indulge in similar type of offences and if found, the prosecution will be at liberty to move for cancellation of his bail.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

sjk