

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

CRI. BAIL APPLICATION NO. 922 OF 2016

Mr. Rizwan Akbar Choudhary ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Ms. Pranali Kakade, Advocate i/by Subhash Hulyalkar for the Applicant.

Mr. Arfan Sait, A.P.P. for the Respondent – State.

API-Mr. Raju R. Thubal, P impri Police Station, is present.

CORAM : A. M. BADAR, J.

DATE : 08th JUNE, 2016

P.C. :

1 The Applicant/ accused in Crime No. 665 of 2015 for the offence punishable under sections 307, 323 read with section 34 of the Indian Penal Code and under section 37(1) r/w. 135 of Bombay Police Act, registered with Pimpri Police Station, Pune at the instance of Mangesh Pandhari Motirave (injured), is praying for releasing him on bail.

2 Heard the learned counsel appearing for the Applicant as well as the learned APP for the State. Learned APP opposed the application by contending that the alleged offence is serious and apart from version of the injured, there are eye witnesses to the incident in question. He further

argued that the applicant/accused is trying to tamper prosecution evidence by getting him admitted to the hospital repeatedly for irrelevant reasons.

3 Now the charge-sheet is filed and it is at this stage the applicant/ accused is seeking bail. It hardly needs to be pointed out that at a pre-conviction stage, there is presumption of innocence of the accused. The object of keeping the person in custody is to ensure his availability for trial and to receive the sentence as may be imposed after due trial. The detention is not supposed to be punitive or preventive. The seriousness of the allegation or availability of material in support of the charge are not the only consideration for grant of bail.

4 In the case in hand, it is seen that injured Mangesh instead of resorting to the procedure established by law, accompanied his friend Nandan Umesh Gaikwad for settling the dispute between Nandan and the present applicant Rizwan. According to the prosecution case, when Nandan and Mangesh had been to the applicant/accused and his associates, the applicant and his associates assaulted the informant Mangesh by means of knife. Perusal of the injury certificate of the informant-Mangesh goes to show that he suffered three wounds on his vital part of the body such as neck and chest. Aslam who is associates of the applicant-Rizwan had filed cross FIR alleging therein that informant Mangesh and his associates

assaulted them. Accordingly the crime is registered against informant Mangesh and his associates.

4 Considering the fact that there is no material to demonstrate that the applicant would not be available for trial and to receive the sentence on filing of the charge-sheet, pre-trial detention of the present applicant is not at all warranted and, therefore, the following order :-

ORDER

- i. The Applicant/accused in Crime No. 665 of 2015 for the offences punishable under sections 307, 323 r/w. 34 of the Indian Penal Code and under section 37(1) r/w. 135 of Bombay Police Act, registered with Pimpri Police Station, Pune, be released on bail during pendency of the trial on executing PR Bond in the sum of Rs. 25,000/- and on furnishing a surety in the like amount.
- ii. As a condition of this order, the Applicant should co-operate the trial court in expeditious disposal of the trial.
- iii. The applicant shall not tamper with the prosecution evidence in any manner.
- iv. This application is disposed of accordingly.

(A. M. BADAR, J.)