

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

BAIL APPLICATION NO.1258 of 2015

Prakash Vitthal Arjun

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. V.V. Purwant for the Applicant.

Ms Arti Bhoir i/b. Ms Shama Mulla for the Intervenor

Mr. Arfan Sait, APP for the Respondent -State.

Mr. B.D. Hoval, API, Akkalkot South Police Station, Solapur
(rural), present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 5th JANUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who was arrested in C.R. No.17 of 2015 registered with Akkalkot south police station, District-Solapur, for the offences punishable under sections 307, 324, 143, 147, 148, 149 and 504 of the IPC and sections 4, 5, 25 and 27 of the Arms Act.

2. The allegations in brief are that on 19.2.2015 at about 10.30 a.m. the Applicant and others formed an unlawful assembly armed with fire arms, swords and other deadly weapons and that they

inflicted injury with an object of causing injuries to Kallappa Bahirgunde, Siddhanna Kalkeli, Ravi Bahirgunde and others. It is further alleged that co-accused had fired a gun shot at Kallappa. As a result he had sustained injuries. The present Applicant and the other co-accused were armed with deadly weapons and had inflicted injuries on the complainant and others and attempted to cause death of the father of the complainant. Said crime was registered pursuant to the FIR lodged by Siddhagonda Kallappa Bahirgunde. The Applicant was arrested on 19.2.2015. Upon completion of the investigation, charge-sheet was filed before the Judicial Magistrate, First Class, Akkalkot, Solapur, and the case was committed to Sessions Court, Solapur. The bail application filed by the Applicant before the Sessions Court, Solapur, was dismissed vide order dated 13.4.2015. Hence, the present application.

3. Mr. V.V. Purwant, the learned counsel for the Applicant has submitted that the complainant has not attributed any overt act to the Applicant. The statements of the eye witnesses also do not indicate that the Applicant was involved in inflicting any injury on Kallappa Bahirgunde and Siddhanna. He therefore, claims that there is no prima facie material to show the involvement of the Applicant in

commission of crime under section 307 r/w 149 of the IPC. He further states that the Applicant is in custody since 19.2.2015 and since the charge-sheet has already filed the presence of the Applicant is no longer required in the custody.

4. Mr. Arfan Sait, the learned APP for the Respondent -State has submitted that the statement of the injured and other witnesses prima facie shows the involvement of the Applicant in commission of the crime, which is of serious nature. He has further submitted that the blood stained cloths and sword were recovered at the instance of the Applicant. He has submitted that the Applicant was also involved in another crime being Crime No.99 of 2013 for the offences punishable under sections 143, 147, 148, 149, 324, 327, 329, 379, 504, 506 of the IPC and sections 4 and 25 of the Arms Act. The learned APP submitted that the Applicant has criminal antecedents and is therefore not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The FIR lodged by one Siddhagonda Kallappa Bahirgunde prima facie reveals that there was dispute between the complainant and the family members of the Applicant.

The FIR further reveals that on 19.2.2015 at about 10.30 a.m. the Applicant alongwith Suresh Arjun, the brother of the present Applicant, and other co-accused formed an unlawful assembly armed with gun, swords, axe, sickle, etc. and that Suresh Arjun fired a gun shot at the father of the complainant. The complainant had also stated that the other co-accused had inflicted injuries on him and others by means of swords, axe, sickle, etc.

6. The statement of injured Kallappa Bahirgunde also prima facie reveals that the Applicant herein was one of the members of the unlawful assembly and that the Applicant was armed with sword and that the Applicant and others had inflicted injuries on him. The statement of the injured witness Siddhanna Kalkeli also prima facie reveals that the Applicant herein was also one of the members of the unlawful assembly. His statement further reveals that Suresh Arjun fired a gun shot at Kallappa. This witness has also stated that one of the co-accused Devidas Kolekar had inflicted injuries on his hand by means of sword.

7. The material on record thus, prima facie indicates that the Applicant herein was a member of an unlawful assembly and that he had inflicted injury on Kallappa Bahirgunde by means of a sword. The

medical certificate also prima facie proves that the said Kallappa had sustained injuries, which were caused due to fire arms whereas Siddhanna had sustained injuries on his forearm caused by sharp weapon. The material on record prima facie reveals that the Applicant is involved in committing the offence of grave nature. The nature of allegations levelled against the Applicant would not justify grant of bail. Furthermore, the records also reveal that the Applicant herein was also involved in committing similar offence in Crime No.99 of 2013. The criminal antecedents of the Applicant also would not justify grant of bail.

8. Under the circumstances and in view of discussion supra the Application is dismissed.

(ANUJA PRABHUDESSAI, J.)