

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2094 OF 2015

Sandeep Nana Awale @ Gundya.

..Applicant.

vs.

The State of Maharashtra.

..Respondent.

Mr. Pawan Mali i/by Prashant Thombre for the Applicant.

Ms. S.D.Shinde, APP. for the State.

Mr. Swapnil Chintal, PSI, Mankhurd Police Station present in court.

CORAM : A.S.GADKARI, J.

DATE : 06th January, 2016

P.C.

The applicant is seeking bail in CR No.283 of 2014 registered with Mankhurd Police Station dated 25.10.2014 under Section 307, 324 read with 34 of the I.P.C.

2) The first information report dated 25.10.2014 has been lodged by the brother of the victim. The victim in the present case is Salman Mohd. Iqbal Shaikh. The date of incident is 24.10.2014 at about 12.00 a.m. The statement of the victim Salman Mohd. Iqbal Shaikh has been recorded on 24.10.2015. In his statement he has stated that when he was proceeding towards the public bathroom, the applicant and co-accused namely Bhola were abusing one of the resident of their locality and were also assaulting him. When the victim tried to pacify the said quarrel, the applicant initially threatened the victim and abused him in filthy language. When the victim tried

to rescue Mr. Arman who has been assaulted by the applicant and the co-accused, initially co-accused namely Bhola @ Vali Mohd. assaulted the victim with Bambu stick. In the mean time, the applicant went inside his house and came out by holding knife in his right hand. The applicant thereafter gave blow of the knife on the right side of the abdomen of the victim. The people who had gathered there separated the applicant. The victim has stated that the knife which was inflicted in his abdomen remained suspended which he removed. The said knife fell down. The applicant thereafter collected the said knife and ran away from the scene of offence. The victim was thereafter admitted to Shatbadi Hospital. After completion of the investigation police have filed the charge sheet.

3) Learned counsel for the applicant submitted that the victim and the complainant have specifically stated that there was one single blow inflicted by the applicant with the aid of knife. The injury certificate issued by the Sion Hospital, Mumbai demonstrates that there are two injuries on the abdomen. The prosecution has failed to prove the second injury which was caused to the victim. He lastly submitted that the applicant is in Jail for last more than 15 months and as the charge sheet is already submitted, there is no necessity to keep the applicant behind the bars. He further contended that the applicant shall abide with all the conditions imposed by the Court if released on bail.

4) Learned APP. on the other hand submitted that apart from the complainant and victim there are five other eye witnesses and that all the witnesses have stated in the same and similar manner as has

been stated by the victim. It appears that the victim and other witnesses have stated that one blow was given by the applicant. The injury certificate demonstrates that there are two wounds caused to the victim on his abdomen. It prima facie appears that the prosecution has not satisfactorily explained about the second wound. Learned APP on instructions submits that there are no antecedents at the discredit of the applicant. The applicant is arrested on 25.10.2014 and since then he is in Jail.

5) Taking into consideration the aforesaid circumstances, I am of the opinion that the applicant can be released on bail by imposing stringent conditions. Hence, the following order.

ORDER

- a) The applicant shall be released on bail in Cr No.283/2014 registered with Mankhurd Police Station, Mumbai on his furnishing PR bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.
- b) After release from Jail the applicant shall attend the Mankhurd Police Station once in fortnight on Monday between 10.00 a.m. to 12.00 noon.
- c) The applicant shall provide proof of his permanent residential address and Mobile no. if any to the Investigating Officer.
- d) The applicant shall attend each and every date before the trial court and shall not tamper with the evidence and/or influence the prosecution witnesses.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)