

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

CRIMINAL APPLICATION NO. 6605 OF 2017

Jaydeep Singh Jaswant Singh Shahu ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

....
Mr. M.V. Ghatge, Advocate for applicant.
Mr. A.S. Shinde, A.P.P. for respondent - State.
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**CORAM : V.L. ACHLIYA, J.
DATED : 08th DECEMBER, 2017**

ORDER :

1. The applicant lying arrested in connection with offence punishable u/s 307, 333, 332, 353, 279, 143, 144, 147, 148, 149 of I.P.C. and section 4 r/w 25 of Indian Arms Act registered vide C.R. No. 597 of 2017 with Nanded Rural Police Station, Dist. Nanded, has preferred this application seeking release on bail.

2. Heard the learned Counsel for the applicant and the learned A.P.P. for State. Perused the papers of investigation.

3. In short, it is the contention of the learned Counsel for the applicant that the applicant is a student of M.B.A. and falsely implicated in the case. By

referring F.I.R., the learned Counsel submits that neither the name of the applicant is mentioned in F.I.R. nor any specific role has been attributed to him in alleged commission of offence. It is contended that the entire case of prosecution against the applicant is false. He is falsely implicated in the case at the instance of Superintendent of Police, Nanded.

4. On 05th November, 2017, during the procession taken out by Sikh community, some quarrel took place between the police personnels and some members of Sikh community. On account of said incident the case came to be registered against seven persons. Name of the applicant is not shown in F.I.R. On 08th November, 2017, the applicant was asked to attend the office of Superintendent of Police, Nanded for recording his statement. Since the father of the applicant is working in police department, he advised applicant to go to the office of Superintendent of Police, Nanded and cooperate in investigation. So he visited the office of Superintendent of Police, Nanded at 1.20 p.m. In the office, Superintendent of Police, Nanded and his gunman – Police Constable Bhalekar mercilessly assaulted the applicant. Later on, the applicant was taken to Rural Police Station and sent for medical examination. Later on at 7.02 p.m. shown him arrested in the case. Subsequently he was produced before learned Magistrate who referred him for medical examination and the medical officer has noted the injuries over his body. The mother of the applicant made

complaint to this effect to the Hon'ble Chief Minister and other officials. Due to illegal arrest and lodging in jail, the applicant could not appear for his examination which was scheduled from 10th November, 2017 to 27th November, 2017. In this background, the learned Counsel urged to release the applicant on bail.

5. On the other hand, the learned A.P.P. opposed the application with contentions that involvement of the applicant in incident dated 05th November, 2017 was discovered during the course of investigation. The applicant who was sitting as pillion rider on motorcycle bearing no. MH-26-AL-7013 found to be raising shouts in loud voice. When he was asked not to raise shouts in such loud voice, the applicant told the police personnel to do his job. When he was reminded that his father is working in police department, the applicant abused the police personnel in filthy language and asked the person accompanied to take out the sword. The person accompanied applicant assaulted police personnel with sword over his back. He submits that statement of this effect has been made during the course of investigation by Police Constable Bhalerao, to whom the applicant abused and person accompanied assaulted by sword. In the background of overall facts of the case of the prosecution, the learned A.P.P. urged to reject the application.

6. On due consideration of the submissions advanced in the light of overall facts of the case of prosecution and further perused the papers of investigation, I am of the view that case is made out to enlarge the applicant on bail. In view of evidence on record, the possibility cannot be ruled out that the applicant being falsely implicated in the case on account of petty incident of verbal exchange of words with police constable. In the F.I.R., the name of the applicant is not mentioned. If we consider the overall facts of the case, it reveals that then none of the witness has stated against the applicant till statement of Police Constable Bhalerao and other two police personnel were recorded on 13th November, 2017. The incident leading to registration of offence occurred on 08th November, 2017. The applicant was arrested on 08th November, 2017 i.e. after he made complaint of assault against police personnel. The statement of injured witnesses were recorded on 13th November, 2017. The applicant has approached with a specific case that on 08th November, 2017 he was called at office of Superintendent of Police, Nanded and he was beaten by the Superintendent of Police and Police Constable Bhalerao. The allegations made by the applicant against the police officials are supported by the report of medical examination of applicant dated 08th November, 2017 and photographs showing injuries sustained by the applicant all over his body. Mother of the applicant has lodged the complaint in respect of the incident dated 08th November, 2017 to the Hon'ble Chief

Minister and other higher officials. From report of medical examination of the police personnels alleged to have sustained injury in the incident, they were found to have suffered simple injury. So also, the injury sustained by the informant and one other police constables in the incident dated 05th November, 2017 are attributed to the person other than the applicant. In the incident dated 05th November, 2017, the only act attributed to applicant is that he abused the Police Constable Bhalerao, when he asked him not to raise shouts. Even the allegations of assault made on said police constable are not attributed against the applicant but attributed to person accompanied with the applicant. The learned A.P.P. fairly conceded that the Police Constable Bhalerao was not referred for medical examination. The applicant is a student aged 24 years and under going M.B.A. Course. He has no criminal antecedents of involvement of offence similar in nature. Investigation of the case is practically over. Custodial interrogation of the applicant is not required to conduct further investigation. I am therefore inclined to allow the application. Hence the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant be released on bail in connection with offence u/s 307, 333, 332, 353, 279, 143, 144, 147, 148, 149 of I.P.C. and

section 4 r/w 25 of Indian Arms Act registered vide C.R. No. 597 of 2017 with Nanded Rural Police Station, Dist. Nanded on furnishing bail in the sum of Rs.10,000/- with one surety in the like amount on the following conditions :-

- (a) The applicant shall furnish names and addresses of his three close relatives with their contact numbers.
- (b) The applicant shall not indulge into offence of similar in nature during the pendency of trial.
- (c) The applicant shall not indulge into act amounting to tampering the prosecution witnesses
- (iii) In the event of breach of bail condition, bail granted to the applicant is liable to be cancelled.
- (iv) Bail be furnished before the Sessions Court.
- (v) Application stands disposed of in above view.

(V. L. ACHLIYA, J.)

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