

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

CRIMINAL BAIL APPLICATION NO.514 OF 2018

Amol Bhaskar Patil	..Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Aniket U. Nikam i/b Mr. Harshal Sunil Patil for Applicant .
Mr. S. R. Agarkar, APP for Respondent.
Mr. Pravin V. Padvi, API Dindori Police Station, Nashik.

**CORAM : P. N. DESHMUKH, J.
DATE : 4th APRIL, 2018**

P.C.:

. Heard Mr.Nikam, learned counsel for applicant and Mr.Agarkar, learned APP for the Respondent-State. Learned APP has tendered on record affidavit-in-reply. A copy of same is supplied to learned counsel for applicant. This application is for grant of bail by applicant involved in C.R. No.17/2018 registered with Dindori Police Station, District Nashik for the offence punishable under sections 307, 341 read with 34 of Indian Penal Code and under sections 3(25) of Arms Act.

2. Learned counsel for applicant submitted that investigation is completed and charge-sheet is filed. It is further contended that during custody period of applicant, he was interrogated, nothing incriminating is recovered from his possession or at his instance except his motorcycle. Learned counsel for applicant had mainly contended that applicant is involved in a cross case registered on the basis of report lodged by Shekhar Pawar out of which present application arise and one being C.R. No.18/2018 registered on the basis of complaint lodged by applicant Amol Patil upon which offence punishable under sections 307, 341, 504, 506

read with 34 of Indian Penal Code and under section 3(25) of Arms Act is registered and has contended that the alleged act of assault committed by accused in C.R. No.18/2018 is more serious as one Dashrath Patil had sustained bullet injury, while according to report out of which present application arise, the only allegation against applicant is of using fire arm and admittedly nobody is injured in the said incident. It is further contended that co-accused Rajendra Suryawanshi is already granted anticipatory bail by this Court and has therefore submitted that application be allowed by imposing suitable conditions.

3. Learned APP has opposed application on the ground that one revolver is not yet recovered from the possession of applicant and that there is direct evidence establishing his involvement in the present crime. Admittedly, there are no eye witnesses to the incident of assault as alleged in the application. Learned APP however on instructions submits that during custody period, nothing was recovered from the applicant except motorcycle as referred above and contended that in the facts as aforesaid application be rejected, as applicant is stated to be criminal element having offence punishable under section 302 pending against him. To meet this submission, learned counsel for applicant has tendered at bar order of this Court dated 25/11/2016 passed in BA No.2287/2016 in C.R. No.369/2016 whereby applicant came to be released on bail in that crime observing that there was nothing to establish that applicant had knowledge that co-accused Sushant Vabale would suddenly remove revolver and fire out on somebody.

4. In the background of submission advanced as aforesaid and perusal of report of Shekhar Pawar reveal that on 17/1/2018, he along with his friends viz., Sunil, Ramesh and Vijay were proceeding towards Nasik in a car. At about 8.45 p.m. one vehicle scorpio overtook their vehicle

and intercepted the same upon which complainant alighted from his vehicle and found scorpio occupied by applicant and three of his friends and on the count of old rivalry applicant is stated to have opened fire from the revolver in his possession upon which all of them ran away from the spot and applicant and his members also ran away.

5. In view of contents of report, seizure of one motorcycle at the instance of applicant put forth by prosecution falsifies the contents of report of applicant's coming in vehicle scorpio and intercepting complainant's car. The fact of seizure of two wheeler is put forth by prosecution in fact substantiates contents of report lodged by applicant which is also registered with the same police station on 18/1/2018 at 7.10 a.m. in respect of same incident dated 17/1/2018 which took place at about 8.30 p.m. to 8.45 p.m. wherein applicant has stated that while he along with his friends Deepak Jadhav, Dashrath Patil and Raja Suryawanshi were proceeding on their two wheelers one esteem car came from Dindori side which was found driven by Ramesh Changle and friends of complainant Shekhar Pawar as named by him in his report who were occupying the same intercepted applicant and his friends who were on two wheeler and on the count of some old incident which took place 6-7 months before, at some wine shop, Sunil Changle fired one round from revolver in his possession which hit near waist of Dashrath due to which he sustained bleeding injuries.

6. Learned APP on instructions from Investigating Officer makes a statement that Dashrath is certified to have sustained serious injury which is stated to be grievous and was indoor patient for about 1 month, while complainant and his friends were certified to have sustained simple injuries.

7. Considering the facts involved in this crime and submissions advanced by learned counsel for applicant together with fact of applicant having been released on bail in another crime by this Court and also considering fact that co-accused Rajendra Suryawanshi involved in this case is granted anticipatory bail by this Court, application is liable to be allowed by imposing conditions as per order below:

ORDER

- i) Applicant be released on bail in C.R. No.17/2018 registered with Dindori Police Station, District Nashik on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;
- ii) While on bail, applicant shall mark his presence with Dindori Police Station, District Nashik on the first day of each month for a period of six months and thereafter quarterly on first day of each such month pending trial.

(P.N. DESHMUKH, J)