

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 553 OF 2019

Vikas Prakash Gaikwad	... Applicant
Versus	
The State of Maharashtra	... Respondent

Mr. Satish S. Raut, Advocate for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
Mr. Amol Kadam, PSI, Warje Malwadi Police Station, Dist. Pune.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 5th July, 2019.

P. C. :-

1. The applicant is seeking bail in connection with CR No. I-181/18 registered with Warje Malwadi Police Station, District Pune under Sections 307, 394 and 201 of the IPC. The FIR is lodged by the Santosh Marathe on 31st May 2018.
2. He has stated that he was knowing the present applicant since two years. The first informant had given Rs. 1,70,000/- to the applicant by way of hand loan. The applicant had not returned it for two years and he was making false promises of making the repayment. On 30th May 2018 at around 4.30 p.m., the applicant called the informant at Gurudatt Hotel near Warje Bus Stop. The first informant

went there in his car. The applicant sat in the car and both of them went to Tavegaon at the instance of the applicant. The applicant represented to the first informant that some person was to pay him Rs. 50,000/- which could be given by him to the first informant. When they reached there, the car was not taken in the village. The applicant alone went inside the village and came back. However, he did not give him any money. He entered the car and assaulted the first informant with a knife. The informant suffered injuries on his chest and hand. The applicant even pressed his head forcefully. Thereafter, the applicant drove the car himself. The applicant removed Rs. 3,000/- from the informant's pocket. The first informant jumped from the running car. The first informant went towards the opposite direction. He was helped by some military persons. The police were informed. The informant was taken to Mai Mangeshkar Hospital for medical treatment. After that he lodged the FIR.

3. He alleged in the FIR that from his car, amount of Rs. 3,000/-, two mobile hand sets and RTO documents were taken away by the applicant. On the basis of these allegations the FIR was lodged. The applicant was arrested on 4th June 2018 and since then he is in custody. The investigation is over and charge-sheet is filed. The

charge-sheet shows that the car was found abandoned at a different spot. One relative of the first informant received an anonymous phone call, the caller had given the location of the car of the informant. The police recovered the car during investigation.

4. Apart from that there is another circumstance against the present applicant, i.e. the recovery of knife. The knife was recovered from his house at his instance. The mobile hand sets and clothes of the applicant were not recovered.

5. I have heard Mr. Raut, the learned counsel for the applicant and Mr. Jadhav, learned APP for the State.

6. The learned counsel for the applicant submits that the applicant is in custody since more than a year. The offence is not punishable with life imprisonment or death penalty. Offence under section 307 is not made out. He further submitted that non-recovery of mobile hand sets and other articles, are circumstances in favour of the present applicant. As against these submissions, learned APP submitted that the offence is serious. The informant had suffered injuries on his chest and hand. Hence, offence under Section 307 is made out. He further submitted that the informant was assaulted and the amount was not repaid by the applicant shows that the applicant had criminal intention

and therefore he does not deserve any relief.

7. I have considered the submissions advanced by the learned counsel for the parties. I have also perused the entire charge-sheet annexed to the application. The injury certificate enclosed to the investigating papers shows that the informant had suffered one CLW of dimension 2 x 1 x 1 cm over the mid chest, another superficial CLW of dimension 2 X ½ X ½ cm and one injury to the right index finger. The patient was stable when he was admitted. It is specifically mentioned that the injuries were simple and there was no grievous injury. This medical certificate shows that the applicant had not caused any grievous injury. The applicant was alone with the informant and if the intention really was to commit the murder of the first informant, nothing stopped him from doing so. Hence, the ingredients of Section 307 of Cr. P.C. are not fully satisfied.

8. In so far as the allegation of recovery of articles are concerned, significantly the mobile hand sets are not recovered. The applicant was in custody of the police for sufficient period. The car was found abandoned. Therefore, it cannot be said that the applicant had taken away the car for himself. All these factors show that though there may be some incident between the applicant and first informant, at this

stage there is no reason to detain the applicant in further custody pending the trial. The applicant is already in custody since 4th June 2018. No further purpose will be served by keeping him in custody during pendency of the trial. Hence, the order:-

ORDER

1. The Applicant is directed to be released on bail, in connection with C.R. No.198/18 registered with Warje Police Station, Dist. Pune, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties each in the like amount.
2. Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)