

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 851 OF 2019

Nayan Bhusaheb Mohol

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr. Aniket U. Nikam, Advocate for the Applicant.

Smt. A. A. Takalkar , APP for the State/Respondent.

Mr. Prem Waghmore, PSI, Khadak Police Station, Pune City.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 17th July, 2019.

P. C. :-

1. The applicant is seeking bail in connection with CR No. 390/18 registered at Khadak Police Station, Dist. Pune under Sections 307, 324, 143, 147, 148, 149, 323, 504, 120-B of the IPC and under Sections 3 and 4 (25) of Indian Arms Act, Section 37 (1) read with 135 of the Maharashtra Police Act and Section 7 Criminal Law Amendment Act.

2. The FIR in this case is lodged by one Mandar Dhumal on 31st October 2018. He has stated in his statement that in the night of 31st October 2018, there was a fight between informant's friend Ganesh

Darvatkar and one Swapnil Date. At around 3.30 p.m. the informant, his friend Mangesh Dhumal, Ganesh and others were standing near Paigude Wine Shop, Shukravar Peth. At that time, the present applicant, Rupesh, Vishal and four to five others came there. Rupesh and present applicant told Ganesh Darvatkar to forget about the quarrel and to live peacefully. However, Ganesh Darvatkar did not oblige. Therefore, there was exchange of words. The applicant started assaulting Mangesh Dhumal. The FIR mentions that there was a free fight between those two groups. It is further mentions that accused Rupesh assaulted Mangesh Dhumal and first informant with sickle, because of which both of them suffered injuries. The FIR further mentions that the applicant thereafter removed a revolver and fired three rounds in the direction of Mangesh. Others assaulted Ganesh, Mangesh and the first informant. After that the applicant and his friend left the place. The first informant noticed that Mangesh suffered bullet injury on the calf of his right leg. He was admitted in Sasoon Hospital. The applicant was arrested on 8th November 2018 and since then he is in custody. The investigation is over and charge-sheet is filed. The charge-sheet contains statement of injured Mangesh and other eye witnesses. They narrated the same story as is narrated by the

first informant.

3. Heard, Mr. Nikam, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

4. Mr. Nikam submitted that there was a cross complaint lodged by the applicant's group vide CR No. 391/18 at the same police station under section 307 and other offences. In that case, Rupesh and Vishal had suffered grievous injuries. He, therefore, submitted that the FIR against the present applicant does not state true story. He submitted that the applicant cannot be said to have had any intention to commit murder of Mangesh and therefore offence under Section 307 is not made out. The bullet injury is on calf of right leg, which is not a vital part. He submitted that looking at the nature of injuries suffered by Rupesh and Vishal, the members of applicant's group were the real victims.

5. As against these submissions, learned APP submitted that the present applicant had criminal antecedents. The applicant had not merely assaulted the first informant, but had used a fire arm. Therefore, offence is serious. She submitted that the version of first informant is supported by the medical certificate. Therefore, at this stage, there is sufficient material against the present applicant.

6. I have considered these submissions. Medical certificate in respect of injuries suffered by Mangesh shows that there was wound on right lower limb because of shot by the fire arm. There were two simple injuries, one on head and one on left hand. The first informant had suffered three abrasions which were simple in nature. Thus, the medical certificate do not support the theory of repeated assault with sickle. Therefore, there is definite exaggeration on the part of this witness. Moreover, the injuries suffered by Rupesh and Vishal from the applicant's side are quite serious. Rupesh had suffered six injuries. All of them are described as grievous injuries. They were on the head and limbs. Vishal had suffered serious injuries involving blood loss, which required blood transfusion. Thus, injuries suffered by the applicant's group were much more serious. The first informant's report itself informs that the initially the applicant had tried to pacify the other group and had even tried to broker peace. However, the incident escalated and there was free fight between two groups. No doubt, that the applicant had used fire arm but the injury is caused on a non vital part. Taking into account these factors, I am inclined to grant bail to the present applicant. However, looking at the incident and the use of fire arm, some strict conditions will have to be imposed on him. So

that such incident is not repeated by him. Hence, the order:-

ORDER

- (i) The Applicant is directed to be released on bail, in connection with CR No. 390/18 registered at Khadak 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 in the like amount.
- (ii) Applicant shall not enter Pune Commissionerate Territory except for attending court cases.
- (iii) Applicant shall inform his address where he will be staying during this period to the investigating officer.
- (iv) The applicant shall report to the nearest police station where he will be staying during this period on every Sunday between 4.00 to 5.00 p.m.
- (v) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)