

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

CRIMINAL BAIL APPLICATION NO. 1451 OF 2019

Nilesh @ Jaggu Navnath Mandekar ...Applicant
Vs.
State of Maharashtra ...Respondent

- Mr. Priyal G. Sarda, Advocate for the Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th JULY, 2019

P.C. :

1. Leave to amend. Amendment to be carried out forthwith.
2. The applicant is seeking bail in connection with CR No. 1258/18 registered at Chakan Police Station, Pune. The FIR is lodged under Sections 307, 323 and 506 of the IPC and Section 3 read with 25 of the Indian Arms Act. Applicant is arrested on 22nd December 2018 and since then he is in custody.
3. The FIR is lodged by one Shantaram Chavan. He has stated that on 21st December 2018, at about 8.50 p.m., there was an accident involving the cars of informant's friend Raju Mohite and the present applicant. The informant and others went to the spot.

At that time, there was exchange of words. The informant was blaming the applicant for causing the accident and refused to make any payment and did not allow anybody else to make payment to the applicant. Therefore, applicant got angry. He went away from the spot. However, before leaving, the applicant threatened the first informant. Then the informant came back to his locality. He was informed by his friends that the applicant was searching for him on motorcycle.

4. At about 11.15 p.m. applicant approached the first informant and pointed a country-made pistol at the head of the informant. The informant and his friend Ganesh Chavan did not allow the applicant to fire. At that time, when he was about to fire, the applicant's hand was pushed and therefore, bullet was fired in air. Thereafter, there was scuffle between the applicant and the informant and his friend Ganesh. His weapon was taken away. He was taken to the police station, where he was detained during the night and FIR was lodged in the early morning.

5. The investigation was carried out. The applicant was arrested at the police station as mentioned earlier. The

investigation is over and charge-sheet is filed. The charge-sheet contains statement of Ganesh Chavan, he was a witness to the incident and he substantially corroborated the story of the first informant.

6. Besides this, there is a statement of independent eye witness Suman Mandekar but she had not seen the actual incident. Apart from these there is no eye witness.

7. Heard, Mr. Sarda, learned counsel for the applicant and Mr. Yadav, learned counsel for the State.

8. Mr. Sarda submitted that the applicant is in custody since 22nd December 2018. The offence against him is not serious. He submitted that the weapon was not produced by the applicant, but was produced by the first informant in the police station. Thus, there is reasonable doubt as to whether the applicant was carrying any weapon at all. He submitted that the bullet which was allegedly fired in air was not found at spot.

9. He further invited my attention to the panchanama under which applicant's clothes were seized. There were blood stains on the clothes. This shows that applicant himself was assaulted by the

first informant and Ganesh and false FIR was filed against him. He also relied on an NC complaint lodged at the instance of the present applicant against the first informant and Ganesh. The NC was lodged at 8.50 a.m. on 22nd December 2018 at the same police station. In that NC complaint the same incident is described from the point of view of the first informant. He has alleged that Ganesh Chavan and the first informant Shantaram Chavan had assaulted and threatened him. He, therefore, submitted that the FIR does not tell the true story and that the applicant deserves to be released on bail.

10. Learned APP opposed this application. He submitted that the offence is serious. The applicant was carrying a fire arm and therefore his release on bail is dangerous to the society in general.

11. I have considered these submissions. There is some force in the submissions of learned counsel for the applicant that the weapon was not actually produced by the applicant, but it was produced by the first informant. The bullet which was allegedly fired in the air was also not found. The applicant had lodged NC on the same day. Thus, there is a possibility that the FIR may

contain exaggerated version of the incident. Since the bullet is not found, it is doubtful as to whether the weapon was actually used and whether a shot was fired in the air. An independent witness Suman Mandekar has not stated that she had heard any sound of firing of a weapon. The applicant is in custody since 22nd December 2018. Investigation is over, therefore applicant can be enlarged on bail by imposing some stringent conditions. Hence, the order:-

ORDER

- (i) The Applicant is directed to be released on bail in connection with CR No. 1258/18 registered at Chakan Police Station, 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) The applicant shall not enter the Pimpri-Chinchwad Police Commissionerate area till the conclusion of trial except for attending the court cases, where his presence is necessary.
- (iii) The applicant shall furnish his address where he will be residing during this period, to the investigating officer.
- (iv) The applicant shall give attendance to the

nearest police station once every fortnight.

(v) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)