

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

BAIL APPLICATION NO. 1720 OF 2019

Adinath Balu Raut

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Rahul S. Kate, Advocates for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.1064/2018 registered with Chakan Police Station, District Pune, under Section 394 of IPC.

2. The FIR is lodged on 7/11/2018 by one Nishkalan Dang. He has stated that on 6/11/2018, at about 9.00 p.m. he and his friend Kiran Bagh were going towards their house. On Koregaon Road suddenly at 9.30 p.m., four persons on two motorcycles came there. They had concealed their faces by handkerchiefs. One of them assaulted the informant on his shoulder by sword. They

removed Rs.3,000/- from the informant and Rs.4,000/- from his friend Kiran Bagh. Thereafter, they left the spot. Since, there was darkness, the number of the motorcycle was not noted. On this basis, the FIR was lodged.

3. The investigation was carried out and chargesheet is filed. The applicant was arrested on 12/11/2018 and since then, he is in custody.

4. Heard Mr. Rahul Kate, Ld. Counsel for the Applicant and Mr. Prashant Jadhav, Ld. APP for the State.

5. Mr. Kate submitted that there is no evidence against the present applicant. The panchanama effected on 14/11/2018 shows a sword and Rs.1,000/- are recovered at his instance. However that recovery is not connected with the present offence and there is no incriminating circumstance against him.

6. As against these submissions, Ld. APP Shri. Jadhav while opposing this application, submitted that there are criminal antecedents against him.

7. I have considered these submission. The chargesheet contains the FIR and the statements of the eye witnesses Kiran Bagh describing the incident. They have stated that the four culprits had come there and their faces were masked. Therefore, they could not be seen properly. In those circumstances, there was no question of identification of the offenders. The only evidence against the present applicant mentioned in the chargesheet was recovery of sword and cash. The cash amount of Rs.1,000/- can hardly be described as incriminating piece of evidence. Though sword was recovered at his instance, there is no connecting evidence that the sword had blood of the informant. Moreover, the statement under Section 27 of the Evidence Act does not mention the place where he had concealed the weapon. This statement may not fall within the parameters and requirement of Section 27 of the Evidence Act. In this view of the matter, there is hardly any material against the present applicant and inspite of his antecedents, he deserves to be released on bail. Hence, the following order.

ORDER

(i) The applicant is directed to be released on bail in connection with C.R. No.1064/2018 registered with Chakan Police Station, District Pune, on his executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The application is disposed of.

(SARANG V. KOTWAL, J.)