

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

CRIMINAL BAIL APPLICATION NO. 1944 OF 2019

Ganesh Bhima Shinde

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Priyal G. Sarda, Advocate for the Applicant.
- Mr. S.H. Yadav, APP for the State.
- Mr. V. R. Shinde, ASI, Bibwewadi Police Station, Pune City.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with CR No.296/16 registered at Bibwewadi Police Station, Pune for the offences punishable under Sections 307, 394 read with Section 34 of the IPC and under Section 7(1) of the Criminal Law Amendment Act 1932.

2. The applicant is arrested on 19th November 2016 and since then he is in custody. The FIR is lodged on 17th November 2016 by one Dilshad Ali Bagwan. He has stated in his FIR that he was knowing the applicant. The informant was conducting his small business of selling fruits on a handcart near Nimantran Hotel. He

has stated that the applicant used to approach the informant off and on. The applicant used to take away money from his cash box without his permission. The informant was afraid of him, therefore, he did not lodge any complaint. On 16th November 2016, at about 9.00 p.m., the informant was present near his hand cart. The applicant approached him. He was accompanied by his three friends. The informant was taken near a hotel. Applicant started assaulting the informant with a sharp weapon. The informant suffered injuries on his both hands. The other accused assaulted him with kicks and fist blows. The applicant removed Rupees Three Thousand from him. The applicant was annoyed since the informant was not paying the extortion amount and therefore the informant was assaulted. Thereafter, the applicant left the place. Informant lodged this FIR on the next date, i.e. on 17th November 2016. The applicant was arrested on 19th November 2019. The investigation was carried out and chargesheet was filed.

3. The charge-sheet contains statements of two eye witnesses namely Ravichandra Tiwari and Shiva Chintalwal. Both of them have supported the case of the first informant. The injury

certificate shows that the informant had suffered two injuries on both his forearms, which were described as simple injuries.

4. Heard, Mr. Priyal Sarda, learned counsel for the applicant as well as Mr. Yadav, learned APP for the State.

5. Mr. Sarda submitted that the applicant is in custody for almost three years. The amount involved is only Rupees Three Thousand. The injuries suffered by the informant are all simple injuries. He, therefore, prays for release of the applicant on bail.

6. As against this, learned APP submitted that besides the direct evidence of the informant and two eye witnesses, there is recovery of weapon at the instance of the present applicant. He submitted that there are serious antecedents against the present applicant.

7. To these submissions, learned counsel for the applicant made a categorical statement that in the past two cases, which were pending against him, the applicant is already acquitted.

8. In this view of the matter, I am only considering the merits of the present case. Chargesheet itself shows that the informant was assaulted and the accused had taken away Rupees Three Thousand. He submitted that besides that, there is corroborative

piece of evidence of recovery of weapon. Therefore, at this stage, there is sufficient material against the applicant to show his complicity. The applicant is in custody for almost three years. Injuries suffered by the first informant are simple injuries. Cash amount was recovered from other accused and not from the present applicant.

9. All these factors can be taken into consideration for deciding whether the bail should be granted to the applicant or not.

10. Mr. Sarda, had also emphasises that the applicant is already acquitted in the earlier cases. Taking into account all these factors, no purpose would be served by keeping the applicant in custody for the entire period of the trial. Looking at the conduct of the applicant in the present case, some conditions are required to be imposed on him.

11. Mr. Sarda submitted that the applicant can be directed to stay outside the jurisdiction of Bibwewadi Police Station, Pune. However, directing the applicant to remain outside that jurisdiction will not serve real purpose of keeping check on his activities. Instead of that, the applicant can be directed report to

the police station regularly so that the police can have control on his activities. Hence, I pass the following order:-

ORDER

(i) The Applicant is directed to be released on bail in connection with C.R. No.296/16 registered at Bibwewadi 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 attend Bibwewadi Police Station on every Sunday between 03.00 to 05.00 p.m. till conclusion of the trial.

(iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)