

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

CRIMINAL BAIL APPLICATION NO.3094 OF 2018

Suman Durganand Zha
Vs.
State of Maharashtra

... Applicant

... Respondent

.....

Ms.Sushma T. Mishra a/w. Mr.Munir Ahmed, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for Respondent – State.

Mr.A.M. Bandal, PS Narpoli Police Station, District-Thane, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 31, 2019.

P.C.

Applicant is seeking bail in connection with C.R. No.I-20 of 2017, registered with Narpoli Police Station, District-Thane, for the offences punishable under Sections 307, 323, 504, 143, 147, 148 and 149 of Indian Penal Code (“IPC”, for short) Subsequently, provision of Section 3(1), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999 (for short “MCOC Act”) were applied.

2 The prosecution case is that there was a quarrel between two groups and they had a fight. The incident had occurred on 16th January, 2017. Complaint was lodged by one Sunil

Rajbhar. The role attributed to the applicant is that he has allegedly assaulted injured by fist blows. Co-accused were attributed role of assault by weapon like chopper. The complainant in this case was subsequently impleaded as an accused during the course of investigation. On completing investigation, charge-sheet is filed.

3 On perusal of the documents, it is apparent that the quarrel had taken place at the spur of moment. It is pertinent to note that the applicant had lodged First Information Report ("FIR", for short) alleging assault on 16th January, 2017, vide C.R.No.I-21 of 2017, with Narpoli Police Station, District-Thane, under Sections 323, 341, 324, 504 read with 34 of IPC. In the said FIR, it is stated that the applicant was assaulted by accused mentioned therein. Learned counsel for the applicant pointed out injury certificate of the applicant, which refers to lacerated wound on left temporary parietal region of scalp, neck, back and left joint region. Two other co-accused were granted bail by this Court vide Bail Application No.117 of 2018. Learned APP submitted that the role of the accused who are granted bail is different. Learned APP further submitted that there are cases against both the sides. In view of that the provisions of MCOC Act were applied. Learned counsel for the applicant pointed out the summary incorporated in the charge-sheet, wherein it is stated that on 16th January, 2016, Sunil Rajbhar had lodged the complaint against Deepak Aade,

Laxman Dhotre, Saddam and Raj Lakhara. However, during the course of investigation, it was revealed that Sunil Rajbhar assaulted Vijay Kamble and to create the defence for himself, he has filed false complaint. The incident had occurred at about 1:30 a.m. Complainant, the injured persons were allegedly proceeding together to play cricket match. At that time, there was altercation, which has resulted into assault. As stated above, the applicant is injured. Other persons sustained several injuries and lodged the complaint. Considering the aforesaid circumstances, inspite of rigors of Section 21(4) of the MCOC Act, there is no impediment in granting bail to the applicant.

4 Hence, I pass the following order:

:: ORDER ::

- (I) Criminal Bail Application No.3094 of 2018, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R. No.I-20 of 2017, registered with Narpoli Police Station, District-Thane, pending before the Court of Special Judge, Thane, MCOC on his furnishing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall attend Bhiwandi Police Station, District-Thane, once in a month on first Saturday between 11:00 to 1:00 p.m., till further order;
- (iv) Applicant shall not enter within the jurisdiction of Narpoli/Bhiwandi Police Station, District - Thane;
- (v) Applicant shall provide details of his residential address to the Investigating officer after his release from jail;
- (vi) Applicant is permitted to furnish cash security of Rs.25,000/-, in lieu of surety, for a period of three weeks from today;
- (vii) Criminal Bail Application stands disposed of;
- (viii) Parties to act on an authenticated copy of this order.

(PRAKASH D. NAIK, J.)