

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 BAIL APPLICATION NO.1124 OF 2020

MOHAMMAD BIN SAEED BIN KILEB
VERSUS
SUPERINTENDENT OF POLICE & ANOTHER

WITH

CRIMINAL APPLICATION NO.1812 OF 2020

IN

BAIL APPLICATION NO.1124 OF 2020

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Advocate for Applicant : Mr. Deshmukh Mahesh S.
PP for Respondent-State : Mr. D. R. Kale.
Advocate for informant to assist PP : Mr. M. P. Tripathi.

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CORAM : V. K. JADHAV, J.
DATE : 19.10.2020

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.362 of 2020 registered with Pathri Police Station, District Parbhani for the offences punishable under Sections 307, 353, 186, 504, 506 read with Section 34 of the IPC and Section 4 and 25 of the Indian Arms Act. His application with similar prayer came to be rejected by the Additional Sessions Judge, Parbhani, vide order dated 22.09.2020 in Criminal

Misc. Application No. 804 of 2020.

2. The learned counsel for the applicant submits that as per the allegations made in the complaint, the incident had taken place as of sudden on account of the place of parking of the motor vehicle. The informant and the present applicant are the neighbours. It has alleged in the complaint that because of the quarrel on account of the parking place, the applicant has taken out his licensed revolver and made a fire in the air. The learned counsel submits that on the basis of these allegations, the applicant is in jail since long. Though the prosecution alleges the criminal antecedents, however, those are the old cases and the applicant came to be acquitted in connection with those cases. Out of those four cases, one case is of the year 2008, one case is of the year 2013 and two cases of the year 2014. In all the cases, applicant came to be acquitted long back by the court. The learned counsel submits that during the course of the investigation, the said licensed revolver has been seized by the Investigating Officer. Investigation is almost over for all the practical purposes and the formality of filing charge-sheet is only remained. The applicant has a fixed place of residence. The applicant is easily

available for trial. The applicant is ready to abide the conditions, if imposed by this Court. The applicant may be released on bail.

3. The learned Public Prosecutor assisted by the learned counsel Mr. M. P. Tripathi has strongly resisted the application on the ground that the applicant has a terror in the society and the witnesses are not coming forward to depose against him, and in Criminal Case No.66 of 2014, the Court has observed in the said manner while acquitting the applicant in connection with the said case. The learned Public Prosecutor submits that even after this incident, at the time of the visit of house of the applicant, the applicant has assaulted the Police Constable on duty and accordingly the charge under Section 353 of the IPC has been added in the present crime. The learned Public Prosecutor submits that the applicant may not be released on bail till filing of the charge-sheet. The investigation is still going on.

4. On going through the allegations made in the complaint and on perusal of the investigation papers, it appears that the incident had taken place on account of the trifling reason. The

informant and the applicant are neighbours. It is also not disputed that the applicant is having a licensed revolver. It appears that in the hit of anger, the applicant has made a fire of the said revolver in the air. However, in connection with this crime, the applicant is in jail for a considerable period. So far as the criminal antecedents are concerned, the said cases of the year 2008, 2013 and 2014 respectively, and as submitted by the learned counsel for the applicant in all those four cases, the applicant came to be acquitted long back. It further appears that the court has nowhere made the observations in connection with Case No.66 of 2014 that the witnesses are not coming forward to depose against the applicant because of his terror in the society. Moreover, it further appears that co-accused No.2 Mohammad Naushad S/o Akram Shaikh has assaulted the police party when the police party had been to the house of the applicant for completion of certain formalities. However, said co-accused No.2 Mohd Naushad came to be released on bail by the court below and so far as the charge under Section 353 is concerned, there are no allegations as against the present applicant to deter the public servant from discharging his official duty. The learned Public Prosecutor

submits that during the course of the investigation, deadly weapon like sword and *khanjar* came to be recovered from the house of the applicant, however, as a matter of punishment, the bail cannot be refused to the applicant. Thus, by imposing certain conditions, such as not to enter in Pathri till filing of the charge-sheet, I am inclined to release the applicant on bail. Hence following order :

ORDER

1. The application is hereby allowed.
2. The applicant MOHAMMAD BIN SAEED BIN KILEB in connection with Crime No.362 of 2020 registered with Pathri Police Station, District Parbhani for the offences punishable under Sections 307, 353, 186, 504, 506 read with Section 34 of the IPC and Section 4 and 25 of the Indian Arms Act, be released on bail on furnishing P.B. of Rs.50,000/-(Rupees Fifty Thousand only) with one solvent surety of the like amount on the following conditions :-
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 8.00 to 11.00 a.m. till filing of charge-

sheet and even for a period of three months after filing of the charge-sheet on the same day and time.

- c] The applicant shall not enter within the limits of Pathri, Tq. Pathri, District Parbhani till filing of the charge-sheet except attending the Police Station as directed above.
- 3. The application is accordingly disposed off.
- 4. Criminal Application No.1812 of 2020 is allowed in terms of prayer clause 'B'. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-