

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1374 OF 2020

Syed Athar s/o Syed Naeemuddin

Applicant

Versus

The State of Maharashtra

Respondent

Ms. Fatima S. Kazi, advocate with Mr..S.S.Kazi, advocate for the applicant.

Mr.A.A.Jagatkar, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 17th December, 2020.

PC :

1 The applicant – Syed Athar s/o Syed Naseemuddin, is seeking bail in connection with Crime No.427 of 2020, registered with Jinsi Police Station. Aurangabad, for the offences punishable under Sections 449, 395, 427, 504 and 506 of the Indian Penal Code.

2 Heard both sides.

3 The learned Counsel for the applicant submits that as per the allegations made in the First Information Report, the applicant has threatened the informant and his family members by holding a sword in his hand, however, the applicant has not caused injury to anyone. The learned Counsel submits that there was a dispute in respect of *Dargah* land. In respect of the incident occurred on the same date, time and place, the applicant has also lodged a complaint in the

concerned Police Station against son of the informant and other accused persons for having committed offence punishable under Sections 307 and 149 of the Indian Penal Code vide Crime No.428/2020. The learned Counsel submits that to counter the said complaint, the present complaint has been lodged. The learned Counsel submits that investigation, in the crime, is almost over and formality of filing charge sheet is only remained. This Court, by order dated 03rd December, 2020, has released co-accused Syed Mumtaz s/o Syed Gafoor on bail. The learned Counsel submits that there is no criminal history. The applicant is ready to abide by the conditions, that may be imposed by this Court, while enlarging the applicant on bail. The learned Counsel submits that the applicant may be released on bail.

4 The learned A.P.P. has strongly resisted the application on the ground that the applicant has allegedly entered house of the informant and threatened the informant and his family members on the point of sword. The learned A.P.P. submits that the investigation is still going on. There is possibility of tampering with the prosecution evidence. *Prima facie*, there is strong case against the applicant. The applicant may not be released on bail.

5 On going through the allegations made in the complaint and on perusal of the investigation papers, though I find name of the applicant in the First Information Report with specific role attributed to

him, it appears that there was a dispute between two groups in respect of *dargah* land. In respect of the incident occurred on the same date, time and place, the applicant has lodged complaint against the son of the applicant and other accused persons having committed offence under Sections 307 and 149 of the Indian Penal Code and on the basis of the said complaint, Crime No.428/2020 came to be registered in the same Police Station. Though the applicant has allegedly threatened the informant and his family members on the point of sword, however, except the threats, the applicant has not caused injury to anyone. In the counter complaint, the applicant and other witnesses, including co-accused Syed Mumtaz s/o Syed Gafoor, have also sustained injuries. Thus, considering entire aspects of the case, I am inclined to release the applicant on bail with certain conditions.

6 Hence, the following order:

(i) The application is hereby allowed.

(ii) The applicant - Syed Athar s/o Syed Naseemuddin, in connection with Crime No.427 of 2020, registered with Jinsi Police Station. Aurangabad, for the offences punishable under Sections 449, 395, 427, 504 and 506 of the Indian Penal Code, be released on bail on his furnishing Personal Bond of Rs.20,000/- (Rs.Twenty thousand) 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 08.00 a.m. to 11.00 a.m. till filing of the charge sheet.

7 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

adb