

Deepak Namdev Masugade .. Applicant
versus
The State of Maharashtra .. Respondent

Mr. P.H.Gaikwad, APP for the State.

CORAM: SMT. BHARATI DANGRE, J.
DATED : 10TH DECEMBER, 2020

P.C:-

1. The applicant has been chargesheeted in C.R.No.94 of 2018 registered with Dahiwadi Police Station and Section 307, 323, 504, 510 and Section 34 of Indian Penal Code has been invoked. The chargesheet compile the material available against the present applicant for indicting him in the offence of attempt to commit murder under.

2. The C.R. came to be registered on the complaint filed by one Krushnat Sopan Chavan, resident of Taluka Man, District Satara. On the day of incident i.e. on 16/04/2018,

while he was enroute his house, at around 10.30 p.m. and was passing Dilkhush Dhaba, he crossed path with the applicant Deepak, resident of Nawlewadi, Taluka Man. He was accompanied with three boys. It is stated by him that since he was knowing Deepak, he stopped his bike and approached Deepak. While he was having conversation with him, one of the boy accompanying Deepak who was in a intoxicated state, started abusing complainant. The complainant objected to the same and since he persisted with the abuses and disrespect, he slapped him. At that movement, it is alleged that another two boys and the applicant assaulted him and Deepak i.e. present applicant is alleged to have stabbed him in the left side of his stomach which resulted into a bleeding injury and this injury left him incapacitated to move. The assailants left the spot and when his cousin brother arrived and he was admitted to the hospital and administered medical treatment.

3. This in nutshell is the case of the prosecution. The said case of the complainant is corroborated by the Injury Certificate issued by the Medical Officer on examining him on 17/04/2018 at 00.20 am. It reflect a stab injury with the following description.

Stab injury on left Hypochondrium oblique 2cm x 2cm x 4cm.

The injury is classified as grievous injury and the cause of injury is described to be hard, sharp object and its age

being within 12 hours. The medical papers of the complainant are compiled in the chargesheet and reflect that he came to be discharged on 24/04/2018.

4. The Learned Counsel for the applicant has invited my attention to the statement of one Navaz Shaikh recorded on 17/04/2018 and he has stated that when he was inside his house at around 10.30 a.m., at the road side, he could hear huge ruckus and when he went outside the house, he saw that in the open space, near his house, Krushna was being assaulted and abused by four unknown persons. In his supplementary statement recorded on 22/04/2018, on the basis of the information received by this witnesses, he has named the applicant as one of the assailant. Statement of Mahadev Chavan is also compiled in the chargesheet where he say that when he had concealed himself when the incident had taken place and he saw that the applicant had stabbed the complainant in his stomach and he brought the injured complainant on the road near the dhaba. Accepting the case of the prosecution as it is, as compiled in the chargesheet, the applicant is alleged to have committed an offence under Section 307. Perusal of the statement of the witnesses and the complainant would reveal that there was no premeditation or any intention to kill as the incident took place on account of verbal altercation ensued between an accused person and the complainant. It was not a pre-planned act and in the heat of

movement which developed when the verbal altercation took place and since the complainant slapped one of the person who is alleged to be intoxicated condition, the applicant took out knife and gave one single blow on left side of the stomach resulting into bleeding injury. The medical examination reveal moderate bleeding and the fact that the applicant was discharged within a period of seven days after administering necessary treatment reflect that it was not an injury of such a nature which would have caused death.

5. This view is expressed on the basis of prima facie reading of the material compiled in the chargesheet in form of the statement by the complainant and other witnesses. The other two accused persons are already released on bail and rightly so since the role ascribed to the present applicant is distinct from the other accused persons who are alleged to have assaulted the complainant by kicks and blows. The medical examination reveal only one single injury which is a stab injury attributed to the applicant. However, this injury cannot be said to have been caused with an intention and having knowledge that it is likely to cause death of the injured.

6. The Learned APP has strongly opposed the application in light of the antecedents of the applicant. The Counsel for applicant was, therefore, given time to ascertain the outcome of the 10 cases which were alleged to have been registered against him. She has produced on record a chart,

reflecting the outcome of the cases which include the present case in form of C.R.No.94 of 2018. As far as C.R.No.112 of 2013 and C.R.No. 70 of 2014 registered with Dahiwadi Police Station are concerned, the applicant is not shown as an accused and the other accused persons are also acquitted. C.R.No.134 of 2015 registered with the same Police Station invoking Section 394, 34 has also resulted in acquittal and the judgment is placed on record by the Learned Counsel. The submission of the Learned Counsel is to the effect that the gravity of the other C.R.s where largely the offences against property have been invoked barring the offences under Section 504, 506 read with 34 in these C.R.s., the seriousness of the accusation do not warrant, continued incarceration of the applicant merely on the ground of his criminal antecedents. The applicant is ready to be subjected to stipulation and strict condition of not entering into the jurisdiction where the victim is residing i.e. Taluka Man District Satara. This would ensure that the applicant do not interfere with the victim or the prosecution witnesses supporting the case of prosecution in C.R.No.19 of 2018 where the chargesheet is already instituted and the case is pending for trial.

7. Prima facie, by taking into consideration the material contained in the chargesheet and coupled with the fact that the applicant has been arrested since 22/04/2018 and more than two years have expired since his incarceration and

also taking into account the antecedents of the applicant which have been discussed in detail above, the applicant, in my considered opinion, is entitled to be released on bail subject to the following conditions.

ORDER

- (a) Application is allowed.
- (b) The applicant – Deepak Namdev Masugade, shall be released on bail, in C.R.No.94 of 2018 registered with Dahiwadi Police Station, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not enter in Taluka Man during the pendency of the trial and shall mark his attendance in the Court of Additional Sessions Judge, Waduj once in two months on any Monday.
- (d) The applicant shall update the Investigating Officer of Dahiwadi Police Station his recent address on his release on bail as well as his telephone number and keep him updated about any change therein.
- (f) The applicant shall co-operate with the investigation and attend the Police Station as and when required by the Investigating Officer.

SMT. BHARATI DANGRE, J