

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

CRIMINAL BAIL APPLICATION NO. 3058 OF 2019

Swapnil Sanjay Kamble ...Applicant

V/s

The State of Maharashtra ...Respondent

Mr. Aniket. Nikam i/b. Vivek N. Arote for the applicant.
Smt. A. A. Takalkar, APP for the State/respondent.
D. M. Nikam, PSI, Pimpri Police Station, Pune

CORAM : PRAKASH D. NAIK, J.

DATE : 5th FEBRUARY, 2020.

PC :

1. The applicant is seeking bail in connection with C.R. No. 428 of 2019, registered with Pimpri Police Station, Pune, for the offences punishable under Sections 307, 341, 143, 147, 148, 149 of Indian Penal Code, 1860 ('IPC' for short) and 37(1), 135 of Bombay Police Act and 25(4) of Arms Act. Subsequently, charge under Section 302 of IPC was invoked.

2. The case of the prosecution is that informant Mohan Sambhaji Devkate lodged the FIR alleging that the complainant was working as a Driver on Tempo Traveller Car. Since last two years. The said car was on rental basis

at W. N. S. I. T. Park and the complainant was assigned the duty of pick up and dropping the employees. The complainant is working from 7.00 a.m. to 7.00 p.m. everyday and he knows the employees. On 14.03.2019 at about 11.50 p.m., the complainant went to drop 11 employees to their house from company. On 15.03.2019 at about 12.30 a.m., when the complainant reached near Delux Chowk, Pimpri, Pune, four unknown persons stood in front of his car. The complainant stopped vehicle. One employee Manjit Prasad asked the unknown persons as to what happened. One person slapped on Manjit's face. Manjit got down from vehicle and asked him the reason for assault. The said person called Dharmya, Swapnil and Amar with weapons and there was scuffle amongst them. When the complainant got down from the tempo traveller he saw the accused assaulting Manjit by hands and kicks. When the complainant and other employee intervened in the said quarrel at that time one person called Dharmya and asked him to bring a weapon and one unknown person assaulted Manjit by weapon on his body with an intention to kill him. On noticing chopper in the hand of said accused. thereafter the complainant and other employees ran away. Manjit was lying in an injured condition and blood was oozing from his

body. Thereafter the complainant and other employees admitted Mr. Manjit at YCM Hospital, Pimpri. At 4.00 am in the morning, the complainant dropped all the employees and went to his house. Due to the extreme pain, Manjit was shifted to Birla Hospital. The complainant states that Manjit was not able to talk due to the injuries. Complainant lodged the report against the accused.

3. Undisputedly, the prosecution case is that one person was armed with chopper and the others were unarmed. All of them had assaulted the victim. The persons who were not armed with weapon assaulted the victim by fist and kick blows.

4. It is submitted that, Test Identification parade was conducted. Although, there are eye witnesses to the incident, none had identified the applicant as a person participated in crime. However, learned APP submitted that blood stained clothes of the applicant were recovered. C.A. report supports the prosecution case. Learned counsel for the applicant however submitted that clothes period of about morethan 20 hours after the incident. Apart from the above, there is no circumstances to establish the

participation or even presence of the applicant in crime. No recovery of weapon from applicant. The injuries are by sharp weapon. No motive for applicant to commit crime.

5. Learned APP submitted that there are two antecedents against the applicant, registered with Pimpri Police Station, Pune. However considering the nature of evidence against the applicant in the present case, he cannot be detained. One person has assaulted by deadly weapon. The applicant is not identified. The Sessions Court had observed that there is likelihood of tampering witnesses. The applicant was arrested on 15.03.2019. Hence, case for grant of bail is made out.

6. Hence, I pass the following order:

ORDER

- (i) Bail Application No. 3058 of 2019, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. of 428 of 2019, registered with Pimpri Police Station, Pune, on furnishing P.R. Bond in the sum of Rs. 25,000/-, with one or more sureties in the like amount;

(iii) The applicant shall report the concerned Police Station, once in a month on first Saturday of every month between 11.00 a.m. to 01:00 p.m till further order;

(iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)