

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.123 OF 2021

Dattatraya s/o Uttam Aagre

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. S. J. Salunke, Advocate for the applicant.

Mr. A. M. Phule, APP for the respondent – State.

.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd February, 2021

ORDER :-

. Present applicant came to be arrested on 23.10.2020 in connection with Crime No.266 of 2020 dated 23.10.2020 registered with Kallam Police Station District Osmanabad for the offences punishable under Section 307 read with Section 34 of Indian Penal Code. He has prayed for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. S. J. Salunke for the applicant and learned APP Mr. A. M. Phule for the respondent – State. In order to cut short it can be said that both of them have made submissions in support of their respective contentions.

3. It can be seen that the FIR has been lodged by one Umesh Shivaji Tikone regarding the incident that had allegedly taken place at about 4.15 p.m. on 21.10.2020. He has stated that he works as driver on the vehicle owned by one Trimbak Kashinath Aagre. Some amount was outstanding from said Trimbak and, therefore, Trimbak had called him at about 11.00 a.m. on the same day. He went to the farmhouse of Trimbak, at that time, Trimbak was with his cousin brother Dattatraya i.e. present applicant. They had lunch and thereafter, he was taking a nap. He woke up due to the assault given to him and then he found that towards his left hand Trimbak was standing and towards his right hand, the present applicant was standing. At that time, Trimbak had given him blow on his head with some sharp weapon and, thereafter, he become unconscious. He regained his consciousness at Jagdale Mama Hospital, Barshi. Perusal of the FIR would also show that the presence of the present applicant is shown and no specific role has been attributed. Now, the investigation is over and charge-sheet has been filed. Perusal of the charge-sheet would also show that in the statement of witness Rajendra Popat Aagre, presence of the applicant is shown, but no role is attributed. Same is the case with statements of other witnesses i.e. Sushma Rajendra Aagre and Sujata Mahesh Swami. The alleged weapon, with which the informant was assaulted, has been

recovered from Trimbak and there is only one weapon that is recovered. Though it appears that the informant has sustained serious injuries, yet, taking into consideration the evidence on record and also apart from the statement under Section 161 of the Code of Criminal Procedure, even in the statement under Section 164 of the Code of Criminal Procedure, the above said witnesses have also stated only the presence of present applicant and, in fact, two of them that is Rajendra and Sushma have not even stated the presence of the present applicant near the informant. He deserves to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) Applicant – Dattatraya s/o Uttam Aagre, who has been arrested in connection with Crime No.266 of 2020, registered with Kallam Police Station, District Osmanabad, for the offences punishable under Section 304 read with Section 34 of Indian Penal Code, be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.
- III) The applicant shall not tamper with the evidence of the prosecution in any manner.
- IV) He should not indulge in any criminal activity.
- V) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]