

(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 BAIL APPLICATION NO.186 OF 2021

SUNNY @ VIKAS BHANUDAS GORE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Shaikh Mazhar A. Jahagirdar
Mr. AM Phule, APP for Respondent-State

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 16th March, 2021.

PER COURT :-

1. Present applicant has been arrested on 15.7.2020 in connection with CR No.I-1120/2020 by Shrirampur City police Station, Shrirampur, District Ahmednagar, for the offence punishable under Sections 143,147, 148, 326, 324, 323, 504, 506, 34 of IPC and under Sections 37(1)(3) and 135 of The Maharashtra Police Act. He has filed the present application under Section 439 of Cr.P.C.

2. Heard learned Advocate Mr. Shaikh Mazhar A.Jahagirdar for applicant and learned APP Mr. AM Phule, for Respondent-State.

3. The learned Advocate for the applicant has submitted that the FIR would give picture that there was dispute between two families of the

(2)

informant and one Suresh Shirsat. Present applicant is not related to said Suresh Shirsat. The allegation in the FIR states that the present applicant had assaulted wife of the informant with a stick, If we peruse the Medical Legal Certificate, it indicates only one injury to her nose, which is stated to be a fracture to the nasal bone. Now, the investigation is over and charge sheet is filed and, therefore, further physical custody of the applicant is not required. He deserves to be released on bail.

4. Per contra, learned APP strongly opposed the application and submitted that specific role is attributed to the present applicant in the FIR. Grievous injury has been caused to wife of the informant. There are eye-witnesses to the incident, who have specifically stated about the role played by the present applicant. Further, the present applicant has criminal antecedents. In all, seven offences are registered against him with the same police station. Possibility of commission of another crime by him, upon his release on bail, cannot be ruled out. So also, another fact is that the informant and the witnesses are residing in the

same vicinity. He, therefore, does not deserve to be released on bail.

5. Now, the investigation is over and charge sheet is filed. Therefore, further physical custody of the applicant is no longer required for the purpose of investigation. As per the FIR lodged by one Sunil Umaji Hiwrale, the dispute started when his daughter, who was aged 5, had gone to play in open space in front of his house. It is stated that one Nitin Lokhande started abusing the daughter of the informant. When the present informant went there to tell Nitin Lokhande that he should not abuse, Nitin abused the informant. Then informant's wife came and then Suresh Shirsat; Aatish Suresh Shirsat; Satish Suresh Shirsath; who are the neighbours of the informant, went there along with one Sandeep Nana Lokhande; Sanjay Kacharu Khillare and Vicky Gore, i.e. present applicant. It is stated that all of them had started assaulting the informant by kicks and fists blows. When wife of the informant was separating them, Nitin Lokhande had inflicted blow of iron rod and the present applicant had assaulted wife of the informant with wooden stick. Perusal of the spot

(4)

panchanama would show that the said stick has been recovered from the spot. If we peruse the medical certificate of wife of the informant, it would show that she sustained three injuries viz.. Heamatoma over fore-head; CLW over nose; and contusion abrasion over left eye-brow. It is found that after the investigation that her nasal bone has fractured and, therefore, she was admitted to the hospital and given treatment. The statement of wife of the informant especially would show that she has not stated on which part of the body she had received the injuries. At least she would have been clear enough in stating the same. Same is the case with the other eye-witnesses and the informant himself. As regards the criminal antecedents of the applicant is concerned, we are also required to consider the role allegedly played by him in this case as well as the evidence that has been collected against him. Therefore, taking into consideration all these aspects that the weapon is stated to have been recovered from the spot and the injured as well as the eye-witnesses are not clarifying as to on which part of the body, the stick blows were received, the applicant deserves

(5)

to be released on bail. However, at the same time, balance will have to be struck taking into consideration the criminal antecedents of the applicant and, therefore, strict conditions are required to be imposed. Hence, following order,

ORDER

- i. The Bail Application stands allowed.
- ii. The applicant - SUNNY @ VIKAS BHANUDAS GORE be released on bail in connection with CR No.I-1120 registered with Shrirampur City police Station, Shrirampur, District Ahmednagar, for the offence punishable under Sections 143,147,148, 326, 324, 323, 504, 506, 34 of IPC and under Sections 37(1)(3) and 135 of The Maharashtra Police Act on PR bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.
- iii. The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.
- iv. If it is found that, henceforth, the applicant has indulged in/involved in offence against body, defined under Chapter 16 of the IPC, the prosecution is at liberty to file an application under Section 439(2) of Cr.P.C.

(6)

v. The applicant shall comply with the requirements set out in Para No.12 (1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.

vi. Bail before the trial court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV