

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 BAIL APPLICATION NO.325 OF 2021

WITH

CRIMINAL APPLICATION 876 OF 2021

PRASHANT DATTATRAYA KAMBLE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.J. Salunke, Advocate for applicants

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

Mr. A.B. Jagtap, Advocate for assist to PP

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07th APRIL, 2021.

ORDER :

1 Criminal Application No.876 of 2021 moved for assist to PP is allowed and disposed of.

2 Both the applicants have been arrested in connection with Crime No.22/2021 dated 18.01.2021 registered with Tuljapur Police Station, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 307, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860. They have

filed present application under Section 439 of the Code of Criminal Procedure, 1973.

3 It will not be out of place to mention here that after the submissions on behalf of the applicants and taking into consideration the documents on record, it can be seen that applicant No.1 Prashant Dattatraya Kamble is involved in Crime No.387/2017, lodged by the present informant himself under Section 307, 504, 506 read with Section 34 of the Indian Penal Code. He has been released on bail in that case. Further, it also appears that there was an application under Section 439(2) of Cr.P.C. filed by the informant for cancellation of bail but it came to be rejected on 08.10.2018 by learned Additional Sessions Judge-1, Osmanabad. That means, on the day of alleged incident in this case said applicant Prashant Kamble was on bail; yet, there are allegations that he has committed offence under Section 307 of the Indian Penal Code etc. and, and therefore, after the disinclination was shown by this Court to grant any relief to applicant No.1; on instructions, the learned Advocate Mr. S.J. Salunke appearing for him, prayed for the withdrawal of the application. There is no hurdle in allowing him to withdraw his application. Now, the application would stand only for applicant No.2.

4 Heard learned Advocate Mr. S.J. Salunke for the applicant No.2

and learned APP Mr. A.M. Phule, well assisted by learned Advocate Mr. A.B. Jagtap, for the respondent/State. In order to cut short it can be said that they have argued in support of their respective contentions.

5 Perusal of the FIR lodged by informant Ravindra Baliram Dhawale would show that the incident had taken place around 5.45 p.m. on 10.01.2021 near Shivaji Nagar, HUDCO at Tuljai Nagar corner. As regards the present applicant No.2 Ganesh Shankar Kale is concerned, it is stated that he had assaulted the informant by iron rod. Co-accused are stated to have assaulted him with iron sickle, iron rod and stone. He had received injuries to his head, back and right leg. Perusal of the police papers would show that in all 10 injuries have been caused to the informant. Out of them, injury Nos.8, 9 and 10 are stated to be grievous, but injury Nos.1 to 7 are simple. Injury No.8 is to the chest and it is stated that there is fracture to the vertebra L-4, injury No.9 is stated to be fracture to D-6 vertebra and injury No.10 is to the elbow. There is no specific mention in the medical certificate, as to which of these injuries were life threatening, though the injuries are grievous. Whether the offence under Section 326 of the Indian Penal Code would be made out or it would be under Section 307 of the Indian Penal Code will have to be considered by the Trial Court. But then as regards weapon allegedly used by the present applicant and these injuries noted, this Court is

of the opinion that the applicant No.2 deserves to be released on bail. Another fact to be noted is that the FIR has been lodged on 18.01.2021, that is, after about eight days. This fact is also considered here. On the specific question to learned APP about the criminal antecedents of applicant No.2 it is submitted that the concerned Investigating Officer has not stated that there are any criminal antecedents against the applicant No.2. Under such circumstance, he deserves bail. Hence, the following order.

ORDER

- 1 Application stands allowed.
- 2 Applicant No.2 Ganesh Shankar Kale, who has been arrested, in connection with Crime No.22/2021 dated 18.01.2021 registered with Tuljapur Police Station, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 307, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860, be released on PR. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.
- 3 The applicant shall not tamper with the evidence of the prosecution, in any manner.
- 4 He shall not indulge in any criminal activity.

5 He shall attend the Tuljapur Police Station, Tq. Tuljapur, Dist. Osmanabad, twice in a week i.e. on every Tuesday and Friday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

6 Bail before Trial Court.

7 Criminal Application No.876 of 2021 stands disposed of.

(Smt. Vibha Kankanwadi, J.)

agd