

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 616 OF 2021

Bhaginath S/o Pandurang Kolekar

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.B Girase, Advocate for the applicant.

Mr. S.P. Sonpawale, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 17th August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Facts leading to this application are that :-

On 3rd November, 2020, at about 3.00 pm, informant had stopped his vehicle at Matoshree hotel in village Miri. Bhausahab Chande and Sarangdhar Khemkar were also with him. While having lunch, Pandurang Kolekar, Dhondiram Kolekar, Bhausahab Kolekar, Sopan Kolekar, Bhaginath Kolekar, Popat Kolekar and the applicant came there and started beating him with stick and iron rod. Accused

Dhondiram delivered a blow of iron rod on the head of the informant. Applicant Bhaginath delivered a blow of sickle on the head of the informant from behind. Informant fell unconscious. He was shifted to the hospital. On these allegations, offence under Sections 307, 326, 324, 143, 147, 148, 149, 504, 506, 188, 269, 270 of Indian Penal Code and under Section 11 of Maharashtra Covid-19 Act, 2020 and under Sections 2, 3 and 4 of Epidemic Act came to be registered against the applicant.

3. Learned counsel Shri Girase submitted that injured has been discharged from the hospital. There is no possibility of conversion of a more serious offence. Charge-sheet has been filed. Therefore, keeping the applicant behind the bars will serve no purpose. He further submitted that CCTV footage shows that applicant was on duty. He is working as a Watchman in Shani Shingnapur Devsthan. He was not present at the scene of the offence. He, therefore, prays for allowing the application.

4. Learned APP submitted that the applicant is a habitual offender. Several offences have been registered against him. The First Information Report indicates that the applicant had delivered a

blow of sickle on the head of the informant. Medical Certificate shows the same position. If the applicant is released on bail, he is likely to commit similar offence again. Therefore, he may not be released on bail.

5. Shri Ambetkar, learned counsel for the informant states that the applicant is a habitual offender. He has given details of the offences registered against the applicant. These details clearly show that the applicant is a habitual offender. He further submits that other accused were released on bail and the informant has filed application for cancellation of their bail. He submits that injury certificate issued by Sai Asian Hospital, Ahmednagar, shows that the informant had serious head injuries. He, therefore, prayed for rejection of the application.

6. Charge-sheet has been filed. Shri Girase submits that this is the first application before this Court after filing of the charge-sheet. Informant is discharged from the hospital. Learned APP also endorses this position. Therefore, there is no possibility of conversion of offence under Section 307 of the Indian Penal Code into a more serious offence. The informant has given details of the

offences alleged to have been registered against the applicant. In paragraph No. 7 of Criminal Application No. 1194/2021, he has given these details. Except offences at serial number (a), (f) and (g), all the other offences are non-cognizable offences. Offence at serial No. (a) is registered under Section 302 read with Section 34 of the Indian Penal Code and it is of the year 1994. It does not indicate that it was registered against the applicant. Informant has produced charge-sheet under Section 324 read with Section 149 and other offences and under Section 353 of the Indian Penal Code. Medical certificate produced along with charge-sheet does not show that the informant had head injury. The certificate of Sai Asian Hospital on which informant has placed reliance does not form part of the charge-sheet. Since the informant has been discharged from the hospital and charge sheet has been filed, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR bond of Rs. 75,000/- (Rs. Seventy Five Thousand only) with one solvent surety in the like amount in connection with Crime No. 0860/2020 registered

with Pathardi Police Station, Dist, Ahmednagar, for the offences punishable under Sections 307, 325, 324, 143, 147, 148, 149, 504, 506, 188, 269, 270 of the Indian Penal Code and under Section 11 of Maharashtra Covid 19 Act, 2020 and under Sections 2, 3 and 4 of Epidemic Act.

iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION NO. 1194 OF 2021 IN
BAIL APPLICATION NO. 616 OF 2021

Devidas Natha Londhe

Applicant

Versus

Bhagnath Pandurang Kolekar
& another

Respondents

Mr. A.G. Ambetkar, Advocate for the applicant.
Mr. S.P. Sonpawale, APP for respondent/State.
Mr. A.B. Girase, Advocate for respondent No. 2.

CORAM : M.G. SEWLIKAR, J.

DATE : 17th August, 2021.

PER COURT :

Application is allowed.

(M. G. SEWLIKAR)
Judge

dyb