

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 815 OF 2021

Shri Vishnu S/o Babasaheb Dhakne
Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.B. Girase, Advocate for the applicant.
Mrs. D.S. Jape, APP for respondent/State.
Mr. Vishal Kakade, Advocate for the informant.

CORAM : M.G. SEWLIKAR, J.
DATE : 2nd September, 2021.

PER COURT :

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

2. Prosecution case in brief is that on 28th July, 2020, at about 8.30 pm, informant and his father were sitting in his grocery shop. At that time, applicant and other accused barged into the shop of the informant. They started abusing the informant and his father. Applicant was armed with a sword and he delivered a blow of it on the head of the father of the informant. Other accused beat the informant and his father by means of an iron rod and wooden stick. Informant sustained fracture injury. On these allegations, offence

under Sections 143, 147, 148, 149, 188, 269, 270, 307, 323, 324, 325, 326, 427, 452, 504, 506 of the Indian Penal Code, Sections 3, 4, 25 of Arms Act, sections 2, 3 and 4 of Epidemic Diseases Act, section 11 of Maharashtra Covid 19 Regulation 2020 and Section 51(b) of Disaster Management Act vide Crime No. 510/2020 came to be registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar.

3. Heard Shri Girase, learned counsel for the applicant, Smt. Jape, learned APP for the State and Shri Vishal Kakade, learned counsel for the informant.

4. Shri Girase submitted that the applicant has also filed another First Information Report bearing No. 509/2020. He submits that all the co-accused in this offence and in the offence registered on First Information Report of the applicant have been released on bail. He submits that the informant has made inconsistent statements in the First Information Report and the statement under Section 164 of the Code of Criminal Procedure. He seeks the applicant to be released on bail.

5. Learned APP and learned counsel for the informant argued that the offence is serious in nature. They submitted that the co-accused have been released on bail as their role was not as serious as that of the applicant. They submitted that father of the informant sustained injury to the skull. Pre-arrest bail application of the applicant was rejected till the Apex Court. They, therefore, prayed for rejection of the application.

6. Admittedly, charge-sheet is filed. The injured has been discharged from the hospital. No further complications in the health of the injured on account of this injury are reported.

7. In the First Information Report, the informant has specifically ascribed the role of assault by sword on the head of the father of the informant. In the statement under Section 164 of the Code of Criminal Procedure, the applicant did not ascribe any such role to the applicant. The role ascribed to the applicant was of giving threats. In this view of the matter, since charge-sheet is filed, no further detention is necessary. Learned APP argued that the applicant has criminal antecedents. Learned counsel Shri Girase has placed on record judgments in Special Case No. 20/2010, RCC

No. 163/2008 and SCC No. 886/2007 indicating that in some of the offences, the applicant has been acquitted. Having regard to this, 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. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. 510/2020 registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 149, 188, 269, 270, 307, 323, 324, 325, 326, 427, 452, 504, 506 of the Indian Penal Code, Sections 3, 4, 25 of Arms Act, sections 2, 3 and 4 of Epidemic Diseases Act, section 11 of Maharashtra Covid 19 Regulation 2020 and Section 51(b) of Disaster Management Act, on condition that the applicant shall not enter the limits of village Takali Manur till conclusion of the trial.
- Iii) Application stands disposed of.

(M. G. SEWLIKAR)
Judge