

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

944 BAIL APPLICATION NO.903 OF 2021

**TUKARAM GIRDHAR VASAVE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. N. L. Choudhari, Advocate for the applicant
Shri. S. P. Sonpawale, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 25th August, 2021

PER COURT :-

1. This is an application for bail under Section 439 of the code of Criminal Procedure.

2. Prosecution case in brief is that on 09th July, 2021 at 8.45 p.m. applicant and one Pradip Kunwar trespassed into the house of the informant. Pradip Kunwar was holding a sword. Both of them were abusing the informant and his family members. Pradip Kunwar threatened the informant that they would be done away with unless they vacate the house. It is alleged that applicant instigated the accused Pradip Kunwar to kill the informant and his family members

and he assured that he would get acquittal for the accused Pradip. Thereupon accused Pradip assaulted the informant by means of sword but the informant warded it off. Accused Pradip started beating informant's brother Rakesh. To save Rakesh, informant intervened. Thereupon accused Pradip took out a *Gupti* from his pant and stabbed the informant. Thereafter applicant and the accused Pradip ran away. On these allegations FIR under Sections 307, 452, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 4 and 25 of Arms Act vide C.R. No. 506 of 2021 came to be registered.

3. Heard Shri. N. L. Choudhari, learned counsel for the applicant and Shri. S. P. Sonpawale, learned APP for the respondent/State.

4. Shri. Choudhari, learned counsel submitted that role of the applicant is only of instigating the accused Pradip. The FIR does not show that the applicant inflicted any injury on the informant or any other family members of the informant. He submits that applicant is an Advocate

representing the accused Pradip in a civil suit pending between the informant and the accused Pradip. Just to wreck vengeance, this false FIR has been filed. He submits that the injured has been discharged from the hospital. Therefore, detention of the applicant behind bars is not necessary.

5. Shri. Sonpawale, learned APP submits that charge-sheet is yet to be filed. Offence is serious in nature. Though it appears from investigation papers that the informant has been discharged from the hospital, considering the nature of offence and fact that the applicant is an Advocate, it cannot be ruled out that he had instigated the accused Pradip to commit the offence. He submits that having regard to a nature of the offence and the manner in which it is committed, the applicant cannot be released on bail.

6. On perusal of the FIR and the investigation papers, it is seen that the role of the applicant is limited to extent of instigating the accused Pradip. None of the

witnesses state that the applicant assaulted the informant or any one from the family members of the informant. Investigation is almost complete. Injured has been discharged from the hospital. Therefore, there is no possibility of conversion of the offence into a more serious one. Applicant has no criminal antecedents. He is an Advocate by profession. Therefore, he is readily available for trial. In this view of the matter, I am inclined to release the applicant on bail. In view of this following order is passed.

ORDER

Applicant is released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen thousand) with one solvent surety in the like amount in connection with CR. No. 503 of 2021 under Sections 307, 452, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 4 and 25 of Arms Act registered with Navapur Police Station, District Nandurbar.

[M. G. SEWLIKAR, J.]

ssp