

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 BAIL APPLICATION NO.1359 OF 2021

SAYYAD FEROJ S/O. SAYYAD MAHEBUB (SAYYAD FEROJ @
GANJAWALA S/O. SAYYAD MAHEBUB)
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Taher Ali Quadri
APP for Respondent – State : Mrs. Vaishali Jadhav - Patil
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07.12.2021

ORDER :-

1. The applicant, who has been arrested in connection with Crime No.211 of 2021 by Hingoli City Police Station, Dist. Hingoli for the offences punishable under Section 307 of Indian Penal Code and under Section 4 punishable under Section 25 of the Indian Arms Act, has prayed for bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 23.07.2021.

2. Heard learned Advocate Mr. Taher Ali Quadri for applicant and learned APP Mrs. Vaishali Patil Jadhav for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. He has not committed any

offence as alleged. Investigation is complete and charge-sheet is filed. Therefore, his further physical custody is not required. The alleged incident had taken place at about 5.30 p.m. and the information has been given to the Police Station at about 10.08 p.m. which is after much delay, which has not been explained at all. Informant is the brother of the injured, who has lodged the report on the basis of hearsay information. He states that he was informed by one Hanuman Kadam about the incident. However, statement of Hanuman Kadam appears to be not taken. Statement of the injured, taken on 24.07.2021 i.e. much after the incident, would show that he and the applicant had some altercation. It was then stated that the injured was selling *Ganja* and which has affected the business of the applicant. He then asked injured to give him *Ganja*. When injured refused, it is stated that he was assaulted from backside. Surprisingly, the informant says that the injured went by walk to Ambedkar Chowk, where he met one Arjun, who made him to lie on the ground and then he was taken to hospital. Thus, in spite of alleged stab, he says that he had gone by walk to another place. If the statements of witnesses are considered, it gives a different place of incident. When now the investigation is done and the charge-sheet is filed, the applicant be released by imposing stringent conditions.

4. Learned APP strongly objected the application and submitted that the assault with the knife on the back of the injured was definitely with intention to commit his murder. The seriousness in the offence can be seen that after the blow was given, the knife got embedded in the body of the injured and it was required to be removed by surgery. The injured was admitted in the Civil Hospital on 12.07.2021 and was discharged on 21.07.2021. The injury certificate definitely indicates that if treatment would not have been given, it would have led to the death of the injured. There are eye witnesses to the incident. The incident has been seen by one Rajesh Chourasiya and now the statement of injured himself is available. When strong evidence has been collected, the applicant deserves no sympathy.

5. The further physical custody of the applicant is not required for the purpose of investigation, as the charge-sheet is filed. But then in that case, this Court has to be considered the evidence that has been collected against the present applicant. Though the first information report has been lodged by the brother of the injured, who was not present at the spot, yet the criminal law can be set in motion by anybody. Further, it is to be noted that the incident has taken place in broad day light, that too in a crowded place. Statement of the injured would make it clear that he was knowing the applicant since prior to the

date of incident. They used to bring liquor and take *Ganja* together. The applicant appears to be under impression that injured is selling *Ganja* and the statements those have been made by the injured indicate that the applicant used to sell *Ganja*. Injured states that the applicant was giving threats since about 10 days prior to the incident on the ground that injured shall not sell *Ganja* in the area of the applicant. When injured was sitting near a dilapidated wall near old civil hospital at about 2.00 p.m., the applicant went near him under the influence of liquor. He took out the knife and showed it to the injured and gave threat that the injured shall not sell the narcotic drug. Injured told him that he is not selling, yet there was quarrel between the injured and applicant from 2.00 p.m. to 5.30 p.m. When injured started going towards his house, at that time, the applicant stabbed him from backside. The knife got stuck in his back and in that position, he went near Ambedkar Chowk, where witness Arjun made arrangements to take him to the Civil Hospital. The seriousness in this case can be considered from this statement. At this stage, we may not go into the aspects what was the distance between the place where he stabbed and Ambedkar Chowk, however, it is to be noted from the discharge summary that the knife was required to be taken out by surgery. There is statement of eye witness, who has seen the applicant stabbing injured. Other witnesses

are those, who had helped the injured to be taken to hospital. Even Arjun Ingle, who is the brother-in-law of the injured and was the first person to help injured states that he has seen injured as well as applicant and the applicant stabbing injured. Therefore, taking into consideration the *prima facie* evidence against the applicant, he deserves no sympathy. Application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm