

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1409 OF 2021

Ganesh Suryakant Pathare = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.AK Bhosale, Advocate for Applicant;

Mr.VM Kagne, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.

RESERVED ON : 08/12/2021

PRONOUNCED ON : 23/12/2021

PER COURT :-

1. Present application has been filed by accused No.2, who has been arrested in connection with CR No.432/2021 registered with Cantonment (Chawni) Police Station, District Aurangabad for the offences punishable under Sections 307, 323, 504 read with 34 of IPC.

2. Heard learned Advocate appearing for the applicant and learned APP for the Respondent-State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated in the alleged crime. An FIR

(2)

has been lodged by friend of an injured, who is contradicting to the statement of the injured. The informant has stated that when the injured had alighted from the car for answering nature's call, two persons, who were standing near the road, started abusing the injured and assaulted him; whereas the injured says that after answering nature's call he went to those persons and started asking as to why they have assaulted him in the afternoon. The evidence collected states that two blows were inflicted by the applicant, however the medical report says that there was only a single blow. However, there was prolonged admission in the hospital. Further, it can also be seen that the informant had exaggerated the situation by saying that the intestine had oozed out of the stomach. But, the medical report is not supporting this fact. Now, the investigation is over and charge sheet is filed, therefore, further physical custody of the applicant, is not required. The applicant is ready to abide by any terms of the bail.

4. Per contra, learned APP submits that the

(3)

applicant is the person, who had inflicted the blows by knife and he has discovered the same. The injury was caused to the stomach. There are eye-witnesses to the incident and when there is evidence on record, sympathy need not be shown to the applicant.

5. The informant – Shubham Gadge is the friend of the injured, who has stated that on 22.7.2021 at about 12.30 am, injured – Ajay Laxman Talankar, was assaulted by the present applicant with knife and by accused No.1 with fists on the count that he had picked up quarrel with them on 19.7.2021. He has stated that the blow of the knife was given in the stomach and almost the intestine had oozed out of the stomach. The injured was along with nephew and two other friends. All these three persons are, prima facie, corroborating each others on material aspect. The minor deviation need not be considered even at this stage.

. Another fact to be noted is that the injured was knowing both the accused persons since beginning. Therefore, there was no question of

(4)

identification of them. Statement of the injured has also been recorded under Section 164 of Cr.P.C. He is attributing a specific role of the present applicant that he was the person, who had assaulted him by the knife. The medical evidence, in the form of Discharge summary issued by Government Medical College, Aurangabad, shows that the injured was admitted in that hospital on 22.7.2021 and he underwent surgery on the same day. He was discharged on 1.8.2021. The diagnosis has been stated as allegedly history of penetrating wound over abdomen with liver laceration with liver laceration with inflamed appendix managed by exploratory laparotomy with primary repair of liver laceration with omentoplasty with appendicectomy. It also shows that there were two penetrating wounds. No doubt, there is provisional injury certificate issued earlier to the discharge summary stating only one stab wound, but the nature of the injury has been shown as grievous and it is specifically mentioned that the size of part of the body was just 3 cms. above umbilicus exposing intestine. Therefore, the medical evidence also prima facie supports the oral statements. Under

(5)

such circumstance, when there is *prima facie* evidence on record, this is not a fit case where the applicant should be released on bail.

6. In the result, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV