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

921 BAIL APPLICATION NO.1422 OF 2021
WITH
BA/1563/2021

SUNNY GAJANAN DANDAWATE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Karpe Rahul R & Sandeep
R.Andhale
Mr. NT Bhagat, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 9th December, 2021

PER COURT :-

1. Both the applications have been filed under Section 439 of Cr.PC. Both the applicants have been arrested in connection with CR No. 837/2021 by Topkhana police station, District Ahmednagar for the offences punishable under Sections 307, 324, 143, 144, 147, 148, 149, 323, 504, 506, 427 of IPC.

2. Heard learned Advocates for the respective applicants and learned APP for Respondent-State. In order to cut short it can be stated that both of them have made submissions in support of their respective contentions.

3. It is to be noted from the contents of the FIR that the allegations against the present applicant in Bail Application No.1422/2021 are that, he has used iron pipe and then it is stated that the informant received blow on his head. As regards the applicant in Bail Application No. 1563/2021 is concerned, it is stated that he was holding knife and the blow was received by him on his left thigh, left hand and nose. As regards the statements of the witnesses are concerned, it appears that most of them were not knowing the applicants and they have not assigned a specific role to each of the accused involved. It is stated by them that the informant was assaulted by eight to ten unknown persons, who had come with weapons. The FIR states that the informant was initially taken to Civil hospital, Ahmednagar. Though the said certificate is not attached to the charge sheet, it was available with the papers of learned APP and after perusal of the said certificate, it shows two injuries, one was on left temporal parietal region and another was on nostril. Both are simple in nature. The charge sheet contains the certificate issued by United City Hospital

(3)

dated 7.10.2021, which shows that there was swelling to the thumb. The injury certificate further says that the hospital authorities found that there was sutured CLW on his left frontoparietal region and then there was CLW on the left nostril. The said hospital authorities then advised him CT scan of the brain and right hand x-ray. The CT scan of the brain done on 20.9.2021 shows cerebral oedema and the right hand x-ray shows right thumb fracture, for which surgery was advised. But then it has been stated that since the relatives were not willing to continue further treatment, they had taken discharge against the medical advice. Thus, it is to be noted that this injury certificate does not show any clear terms that those injuries were fatal or would have led to his death, if not treated, in order to attract Section 307 of IPC. Further, it has been stated that co-accused Nitin Jadhav has been released on bail by the Sessions Court. Further, the evidence against the present applicant is in the nature of recovery, i.e. discovery under Section 27 of the Indian Evidence Act. Taking into consideration

(4)

these aspects, the applicants deserve to be released on bail. Hence, following order, -

ORDER

- i. The applications stand allowed;
- ii. The applicants - SUNNY GAJANAN DANDAWATE and ATISH KISAN WAKALE be released on bail in connection with 837/2021 by Topkhana police station, District Ahmednagar for the offences punishable under Sections 307, 324, 143, 144, 147, 148, 149, 323, 504, 506, 427 of IPC on PR bond of Rs.50,000/-(Rupees fifty thousand) each with two solvent sureties of Rs.25,000/- each;
- iii. The applicants shall not enter area Fakirwada, Ahmednagar till conclusion of the trial.
- iv. Along with submitting the bail papers before the learned Trial Judge, the applicant/s shall give their complete addresses of the place of residence where they intend to reside and along with mobile number/s, till end of the trial.
- v. The applicants shall also give the said information to the Investigating officer along with mobile number/s and shall comply with the requirements set out in Para No.12 (1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.

(5)

vi. The applicants shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

vii. Bail before the Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV