

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3129 OF 2021

MADHUKAR KERBA DEVKAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

INTERIM APPLICATION NO.2412 OF 2021

IN

BAIL APPLICATION NO.3129 OF 2021

SOMNATH POPAT DEVKAR)...INTERVENOR

IN THE MATTER BETWEEN

MADHUKAR KERBA DEVKAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Rajaram Bansode, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

Mr.Rushikesh Kale i/b. Mr.Omkar Hase, Advocate for the Intervenor.

CORAM : V. G. BISHT, J.

**RESERVED ON : 7th DECEMBER 2021
PRONOUNCED ON : 17th DECEMBER 2021**

P.C. :

1 The interim application filed by the intervenor is allowed to the extent of assisting the learned APP in the matter and stands disposed off accordingly.

2 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.539 of 2021 registered with Police Station Karmala, for offences punishable under Section 307, 324, 323, 504, 506 read with 34 of the Indian Penal Code (IPC).

3 Informant is the brother of injured, namely, Ganpat. On 27th May 2021, at about 1.30 p.m., he came to know that the injured and his wife had been assaulted and accordingly he rushed. The injured brother then told him that while he along with his wife was proceeding on motorcycle, accused namely, Prakash Devkar and Madhukar Devkar (applicant) let loose the nostril strings of cow, as a result of which the cow dashed against

the motorcycle and his wife Meenakshi fell down. He further informed that when he asked the accused as to why they did so, both of them started abusing and then accused Prakash Devkar gave a blow of sickle on his head, near left eye and on left hand. Similarly, the applicant tried to kill him by pressing his neck. The informant, accordingly, lodged the First Information Report (FIR).

4 Mr.Rajaram Bansode, learned counsel for the applicant, submits that as far as role of the applicant is concerned, he had allegedly pressed the neck of the injured and nothing beyond that. However, the injured in his supplementary statement recorded on 2nd June 2021 has given an improved version of the incident and alleged that he was caught hold of by the applicant and then co-accused Prakash Devkar had assaulted him by means of a sickle. The learned counsel also invited my attention to the statement of mother of the injured and according to him, mother nowhere says that the injured was assaulted by the applicant. Investigation is over and the charge-sheet has been

filed. In the light of material on record, there is no necessity of custody of the applicant and in such circumstances, the applicant deserves to be enlarged on bail.

5 Mr.Dedhia, learned APP, assisted by learned counsel Mr.Rushikesh Kale for the intervenor, on the other hand, invited my attention to the Medico Legal Certificate and pointed out various injuries suffered by the injured. According to the learned APP the applicant had caught hold of the injured and thus facilitated the assault at the hands of co-accused Prakash Devkar. Having regard to the nature of offence, the applicant does not deserve to be released on bail.

6 Perused the investigation papers and the statement of witnesses. The FIR clearly shows that the applicant had only pressed the neck of the injured. The learned counsel for the applicant is right when he says that the injured in his supplementary statement dated 2nd June 2021 improved his earlier version of FIR and alleged that he was caught hold of by

the applicant and thus, he thereby enabled co-accused Prakash Devkar to assault him by means of a sickle.

7 Pertinently enough there is statement of mother of the injured, namely, Nandabai Popat Devkar. According to her when she reached at the place of incident and enquired as to how the incident had taken place, the injured told that he was assaulted by Prakash Devkar. This also clearly goes to show that the applicant had not, in any manner, assaulted the injured.

8 In view of above material on record, the applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Madhukar Kerba Devkar shall be released on bail in Crime No.539 of 2021 registered with Police Station Karmala, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)