

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.565 OF 2021

MUJYA ALIAS MUJMMIL RAMJAN SHAIKH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vivek Arote a/w. Mr.Aniket Nikam i/b. Mr.Aashish Satpute,
Advocate for the Applicant.

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

CORAM : V. G. BISHT, J.

RESERVED ON : 16th NOVEMBER 2021
PRONOUNCED ON : 23rd NOVEMBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.29 of 2019 registered with Police Station Islampur, Sangli, for offences punishable under Sections 307, 386, 341, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (IPC),

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under Section 135 of Maharashtra Police Act and under Sections 3(1)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organised Crime Act (MCOC Act).

2 It is the case of prosecution that the applicant along with other co-accused were members of organised crime syndicate. On 15th January 2019, at about 4.00 p.m., in front of a bakery at Shirala Naka, Islampur, accused no.1 namely Sonam Shinde along with applicant other co-accused came there and demanded money from the informant, who is running a beer shoppe and a multipurpose hall. It is further alleged that all the accused then started abusing and assaulting the informant. At this stage, accused Sonam Shinde allegedly took out a sickle (koyta) and attempted to assault the informant on his neck. However, informant successfully warded off the blow and snatched the sickle and in exercise of his right of private defence, gave a blow on the leg of accused Sonam Shinde and then managed to free himself and ran away from the spot.

3 Mr.Vivek Arote, learned counsel for the applicant, at the very outset, claims parity on the ground that the other co-accused who is named in the First Information Report (FIR), are released on bail by this Court (Coram : C. V. Bhadang, J.) on 4th January 2021 and trial Court. According to learned counsel for the applicant, he is ready to abide by all the conditions which may be imposed by this Court.

4 Mr.Dedhia, learned APP, on the other hand, opposed the submissions and contended that ground of parity cannot be claimed as the earlier accused who was released on bail was not named in the FIR, whereas the present applicant was specifically named. The learned APP also invited my attention to the Affidavit-in-Reply and submitted that there is no merit in the application and hence the same is liable to be rejected.

5 Perused the investigation papers. I have also gone through the order dated 4th January 2021 passed by this Court (Coram : C.V. Bhadang, J.). Although the learned APP has

submitted that the earlier accused namely Nitin Sanjay Palkar was not named in the FIR and therefore, he came to be released by this Court is not a correct statement, in as much as, the said accused namely Nitin Sanjay Palkar was very much named in the FIR.

6 It may also be noted that the trial Court also granted bail to Jayesh Mane (A-3), Vaibhav Patil (A-5) and Suraj Babar (A-6).

7 A bare reading of the FIR would show that the accused Sonam Shinde in the incident sustained injuries whereas the informant did not. Later on, the informant gave his supplementary statement o 19th January 2021 in which he named the other accused who are already released on bail by this Court and the trial Court. Although the learned APP has claimed the antecedents of the present applicant, but the criminal antecedents are also there to the credit of the other accused who are released on bail. Prima facie, it appears that the role

attributed to the present applicant is that he along with co-accused chased the informant with stones in his hand. As already pointed out, there was no injury on the person of the informant and rather, it was accused Sonam Shinde, who sustained as many as six injuries, although simple in nature. In my considered opinion, the applicant has made out a case for bail. Moreover, the investigation is completed and charge-sheet is filed.

8 In view of above, I pass the following order :

ORDER

- (i) The application is allowed.

- (ii) Applicant – Muja alias Mujmmil Ramjan Shaikh shall be released on bail in Crime No.29 of 2019 registered with Police Station Islampur, Sangli, on his executing PR.Bond in the sum of Rs.50,000/- with one or two sureties in like amount.

- (iii) The applicant shall undertake to attend the trial before the learned Special Court.
- (iv) The applicant shall not enter the jurisdiction of Police Station Islampur, except for the purposes of attending the trial.
- (v) The applicant shall not directly or indirectly make any attempt to contact, influence, threaten or coerce the complainant or any other prosecution witnesses and shall not indulge in any similar act while on bail.
- (vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (vii) Bail bonds to be furnished before the learned Special Judge.
- (viii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(ix) 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.

(x) The application stands disposed off accordingly.

(V. G. BISHT, J.)