

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1046 OF 2020

Nitin Sanjay Palkar

.. Applicant

Vs.

State of Maharashtra

..Respondent

Mr. Umesh R. Mankapure, Advocate for Applicant.

Mr. H. J. Dedhia, APP for State.

CORAM : C.V. BHADANG, J.

DATE : 4TH JANUARY, 2021

PC.

1. The applicant (Accused no. 4) alongwith co-accused is facing prosecution in crime no. 29/2019 of police station Islampur, Dist. Sangli, for the offence punishable under Section 307, 386, 341, 143, 148, 149, 504, 506 of the IPC, Section 135 of the Bombay Police Act and Section 3(1)(ii), 3(2), 3(4), 3(5) of the MCOC Act.

2. The prosecution case as disclosed from the complaint lodged by Jitendra Pardeshi, is that the applicant alongwith co-accused were members of a organised crime syndicate. The incident in question is alleged to have happened on 15th January 2019 at about

4.00 p.m. in front of a bakery at Shirala Naka, Islampur. According to the complainant, accused no. 1, Sonam Shinde, alongwith the applicant and other co-accused came there and demanded money from the complainant, who is running a beer shoppe and a multipurpose hall. It is said that in the incident Sonam Shinde and others abused the complainant and started assaulting him, in which the complainant fell down. At this stage, accused Sonam Shinde is alleged to have taken out a sickle (koyta) and made an attempt to assault the complainant on his neck, which the complainant was successful in warding off. According to the complainant, he snatched the sickle (koyta) from accused Sonam Shinde and in exercise of his right of private defence assaulted Sonam Shinde on his leg by the sickle and then managed to free himself and ran away from the spot.

3. Insofar as the present applicant and other co-accused (except accused Sonam Shinde) are concerned, the allegation is that they chased the complainant with stones in their hands.

4. I have heard the learned counsel for the applicant and the learned APP. With the assistance of the learned counsel for the parties, I have gone through the record.

5. Prima faice it appears that it is the accused Sonam Shinde who had sustained as many as six injuries. According to the complainant himself, he snatched the sickle (koyta) from accused Sonam Shinde and assaulted Sonam Shinde on his leg. Admittedly, the complainant has not sustained any injuries. In this case, supplementary statement of the complainant Jitendra Pardeshi was recorded on 19th January 2019, in which he has named the present applicant alongwith Sonam Shinde, Mujya Shaikh Nalband, Jayesh Mane, Nitin Palkar, Vaibhav Patil and Suraj Babar to be the persons, who were involved in the said incident.

6. The learned counsel for the applicant pointed out that the learned Special Court has granted bail to Jayesh Mane (accused no. 3), Vaibhav Patil (accused no. 5) and Suraj Babar (accused no.6). It is pointed out that the role attributed to these accused is similar to the role attributed to the present applicant. Learned counsel for the applicant, therefore, submitted that the applicant is entitled to parity.

7. Mr. Dedhia, learned APP in all fairness did not dispute that the co-accused Jayesh Mane, Vaibhav Patil and Suraj Babar, who have been released on bail by the learned Special Judge, are also named

alongwith the present applicant in the supplementary statement recorded on 19th January 2019. Insofar as the criminal antecedents are concerned, it appears that even accused who are released on bail have some criminal antecedents to their discredit. Prima facie it appears that the role attributed to the present applicant is that he alongwith the co-accused chased the complainant with stones in his hand. As noticed earlier, the complainant has not sustained any injury and on the contrary, it is the accused no. 1, Sonam Shinde, who is alleged to have suffered as many as six injuries, although simple in nature. The investigation is complete and chargesheet is filed.

8. Considering the above circumstances, following order is passed:-

ORDER

1. Application is allowed.
2. The applicant be released on bail in Crime No. 29/2019 registered with Police Station Islampur, on executing a PR bond of Rs. 50,000/- (Rs. Fifty Thousands Only) with one or two solvent sureties in the like amount.
3. The applicant shall undertake to attend the trial before the learned Special Court.

4. The applicant shall not enter the jurisdiction of Police Station Islampur, except for the purposes of attending the trial.
5. 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.
6. In the event of breach of any of the conditions, the bail is liable to be cancelled.
7. Bail bonds to be furnished before the learned Special Judge.
8. Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.