

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

CRIMINAL BAIL APPLICATION NO.2400 OF 2021

Swapnil @Yogesh Vitthal Bhosale	...Applicant
Versus	
State of Maharashtra	...Respondent

***WITH
CRIMINAL IA NO.2027 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.2400 OF 2021***

Sachin Sahebrao Bhosale	...Original victim/ Intervener
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IN THE MATTER BETWEEN:

Swapnil @Yogesh Vitthal Bhosale	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Vilas B. Tapkir, for the Applicant.

Mr. Satheesh K. R. for the Complainant/Intervener.

Mr. H. J. Dedhia, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th SEPTEMBER, 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail

in connection with C.R. No. 42 of 2021 registered with the Indapur Police Station, Pune (Rural), for the alleged offences punishable under Sections 302, 307, 324, 337, 504, 506 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that with respect to the incident dated 24th January 2021, a cross case has been lodged by the applicant's side. He submits that in the said incident the applicant has also sustained an injury and was in the hospital for 2 days. He submits that taking the prosecution case as it stands and the manner in which the incident had taken place, no offence as alleged under Section 302 of the Indian Penal Code is disclosed *qua* the applicant and that the offence, if any, would be a lesser offence. He submits that the applicant has completed his Diploma in Electrical Engineering and keeping him in custody will not serve any useful purpose.

4. Learned Counsel for the complainant/intervener opposes the application. He submits that the injury caused to Aashabai (deceased) was with an intent to cause her death and that the offence would squarely come within the purview of Section 302 of the Indian Penal Code. He further submits that if the applicant is enlarged on bail, he will threaten/intimidate the witnesses.

5. Learned APP supported the submissions advanced by the learned counsel for the complainant/intervener.

6. Perused the papers. The incident in question has taken place on 24th January 2021. Admittedly, the applicant and the complainant's family including the deceased - Aashabai are related, inasmuch as, deceased – Aashabai was the applicant's aunt. *Prima facie*, it appears that the incident is an outcome of a land dispute between the applicant's family and the deceased family. According to the complainant - Sachin Bhosale, there is a land dispute between the two families and that the applicant's father was demanding 2 acres of land from them. He has alleged that the incident took place at about 6:00 p.m. when his mother - Aashabai (deceased), father – Sahebrao were sitting in the courtyard. He has alleged that the applicant alongwith his parents came there, started abusing them and that on hearing the abuses, he stepped out of the house to see what had happened. According to the complainant, the applicant was armed with an axe and the applicant's parents with sticks. It is alleged that the applicant assaulted Aashabai (deceased) with the axe on her head and the other accused with sticks. The applicant's parents are also alleged to have assaulted the complainant's wife – Shivani.

7. With respect to the same incident, there is a cross FIR lodged by Laxmi Bhosale i.e. the applicant's mother. The said C.R. was registered on 25th January 2021 vide C.R. No.45 of 2021. In the said FIR, the applicant's mother, who is the complainant in the said FIR had alleged that Sahebrao (complainant's father), Sachin (complainant) and Shivani (complainant's wife) started quarreling with her husband and son, on account of a land dispute. She has stated that she was in the house at the relevant time when the incident took place. She has stated that when she stepped out of the house, she saw Sachin (complainant in C.R. No. 42 of 2021) assaulting her husband with a stick and Sahebrao (complainant's father) assaulting the applicant on his waist. Accordingly, the said FIR being C.R. No.45 of 2021 was registered at the instance of the applicant's mother, with the Indapur Police Station, Pune (Rural), for the alleged offences punishable under Sections 324, 504, 506 r/w 34 of the Indian Penal Code.

8. *Prima facie*, it appears that the incident took place at the spur of the moment and is an outcome of a land dispute between the parties. There is an FIR and a cross case with respect to the said incident. It appears that the applicant has also received an injury in the said incident

and was admitted in the hospital during the period 25th January 2021 till 27th January 2021. The injury certificate issued by the Medical Officer, Rural Hospital, Indapur, District Pune, is on page 103 of the application. A perusal of the postmortem report shows that the deceased had sustained 1 incised injury on her head. Whether or not the offence would be one under Section 302 of Indian Penal Code or a lesser offence, is a matter which will be decided by the trial Court. It is a case of single blow. Investigation is complete and charge-sheet is filed. The applicant is in custody since 27th January 2021. As far as apprehension of learned counsel for the complainant/intervener that the applicant may threaten/intimidate the witnesses, the same can be taken care of by imposing stringent conditions on the applicant.

9. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till

framing of the charge;

(iii) The applicant shall not enter the jurisdiction of Indapur Police Station, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

10. The application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12. In view of the aforesaid, the Intervention Application being Criminal I.A. No.2027 of 2021 does not survive and the same is also disposed of.

13. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.