

Sneha N.
Chavan

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by Sneha N.
Chavan
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1090 OF 2020

Shaikh Saleem Shaikh Habib @ Sallu Dada .. Applicant
V/s.

The State of Maharashtra ..Respondent

Mr. Arif Ali M. Ali for the Applicant.

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

CORAM : C.V. BHADANG, J.

DATE : 6th JANUARY, 2021

P.C.

1. This is an application for bail. The applicant Shaikh Saleem Shaikh Habib @ Sallu Dada alongwith co-accused is facing prosecution for the offence punishable under Section 397, 384, 427, 120B of IPC read with Section 4/25 of the Arms Act in Crime No. I-04 of 2020 registered with Killa Police Station, Malegaon, District – Nashik.

2. The prosecution case as disclosed from the complaint lodged by Imran Ahmed Najmulhasan on 13.01.2020 shows that the complainant was running a hotel. The applicant about 2 to 3 days

prior to 13.01.2020 had demanded money from the complainant saying that the complainant is doing good business and earning well. According to the complainant, he went to Sufi Gulam Rasool of Masum Shaha Kutti Masjid asking Sufi Gulam to intervene in the matter. It is said that Sufi Gulam called the complainant to the masjid on 13.01.2020 during the night at about 00.15 to 00.30 hours. According to the complainant, the applicant went to the masjid along with co-accused Navib Chor, Kada and Amin Bochrhya. It is said that Sufi Gulam tried to persuade the applicant not to trouble the complainant. Although the applicant agreed before Sufi Gulam, after the complainant came out of the masjid, it is alleged that the applicant along with the co-accused assaulted the complainant with iron rod, axe and a sword and snatched an amount of Rs.60,000/- and a Samsung mobile phone of the complainant. They also damaged the motorcycle of the complainant. The complainant went to the masjid for safety, when the applicant and co-accused fled away.

3. I have heard the learned counsel for the applicant and the learned APP. Perused record.

4. It is submitted by the learned counsel for the applicant that all the injuries suffered by the complainant are simple in nature. It is submitted that the learned Sessions Judge has released the co-accused Kada on bail. It is pointed out that the only reason why parity is denied, is that the applicant is having criminal antecedents. It is submitted that investigation is complete and a chargesheet is filed and no purpose will be served by detaining the applicant behind the bars pending trial.

5. The learned APP submitted that the offence is serious. He pointed out that the weapons have been recovered at the instance of applicant. A cash of Rs.20,000/- as well as a mobile phone of the complainant is also recovered from the house of the applicant. He submits that looking to the criminal antecedents, the applicant is not entitled for bail.

6. I have carefully considered the rival circumstances and submissions made.

7. Prima facie, it appears that the applicant was the mastermind in demanding the amount from the complainant. The applicant along with co-accused went to the masjid and is alleged to have

agreed before Sufi Gulam, that he will not trouble the complainant. However, immediately after the complainant came out, there are allegations that the applicant and the co-accused assaulted the complainant with sword, axe and iron rod. It is true that the injuries suffered are shown to be simple. However, the record discloses that these weapons were shown to the medical officer and the opinion of the medical officer given on 22.01.2020, prima facie shows that medical officer has opined that the injury nos. 1 and 3 are possible by the iron rod; while the injury nos. 2 and 4 are possible by sword and axe. It further prima facie appears that weapons were recovered at the instance of the applicant and apart from that there is also recovery of cash of Rs.20,000/- and the mobile of the complainant from the applicant. Thus, in my considered view, there is prima facie case showing the involvement of the applicant in the alleged offence. There are also criminal antecedents shown to the discredit to the applicant which is an additional circumstance disentitling the applicant to bail.

8. In the result, the Criminal Application is dismissed. Trial is expedited.

9. It is made clear that the observations herein are essentially of a prima facie nature, for the limited purpose of deciding the plea for bail. The learned Sessions Judge shall not be influenced by the same at the trial.

C.V. BHADANG, J.