

Sushil @ Bobdya Jagannath Chavan ...Applicant
Versus
The State of Maharashtra ...Respondent

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

CORAM : REVATI MOHITE DERE, J.
DATE : 6th SEPTEMBER, 2021

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. 164 of 2018 registered with the Nigadi Police Station, Pune, for the alleged offences punishable under Sections 302, 307, 323, 504, 143, 147, 148 and 149 of the Indian Penal Code; Sections 37(1), 135 of the Maharashtra Police Act and Sections 3 and 7 of the Arms Act.
3. Learned Counsel for the applicant submits that the applicant

has not been named in the FIR lodged by Sunny Sunil Kothambire, an eye witness to the alleged incident of assault dated 7th March, 2018. He submits that in the said FIR, the complainant – Sunny has not named the applicant and has stated that Devanand was assaulted by one Ambadas Katkar (original accused No.1). He submits that subsequently, on the next date i.e. in the supplementary statement dated 9th March, 2021, the complainant - Sunny has named the applicant and has stated that the applicant was present alongwith other co-accused and that the applicant was armed with a sword. He submits that even in the said supplementary statement, no overt act has been attributed to the applicant. Learned Counsel submits that similarly placed co-accused have been released on bail and that the applicant has no antecedents.

4. Learned APP opposes the application.

5. Perused the papers. The complainant – Sunny Sunil Kothambire, in his FIR dated 8th March, 2018 has stated that there was a quarrel between his friend Devanand (deceased) and Ambadas Katkar (Original accused No.1 and a Juvenile) on 3rd March, 2018 and that in the said incident, the deceased had slapped Ambadas Katkar. He has further alleged that on 7th March, 2018, when he was talking on a phone near a

crematorium, 8 to 10 persons came on 3-4 motorcycles; that the said persons were shouting and abusing; that the said 8 to 10 persons stated assaulting one person with fist and kick blows and that suddenly one person from the said group, pulled out a sharp edged weapon and assaulted Devanand in his abdomen. The complainant -Sunny has not named the applicant in the FIR. In the supplementary statement dated 9th March, 2018, the complainant - Sunny has named the accused, who were allegedly present at the spot on 7th March, 2018. He has stated that the applicant was present alongwith others and that he was armed with a sword. Admittedly, no overt act has been attributed to the applicant i.e. of assault by the applicant on the deceased - Devanand. There are similar statements of other eye witnesses, however, no overt act has been attributed by the said eye-witnesses to the applicant. Although, there is a recovery of the sword at the instance of the applicant, the panchanama shows that the sword which was recovered, did not have any blood stains. The applicant has no antecedents. The applicant is in custody since 9th March, 2018. Investigation is complete and chargesheet is filed. Similarly, placed co-accused have also been released on bail.

6. 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. 15,000/- 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 between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iii) The applicant shall inform his latest place of residence and mobile contact number, if any, soon after being released on bail and/or if there is any change of residence or mobile details, time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (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 to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (vi) The applicant shall file an undertaking with regard to

clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

8. 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.

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

REVATI MOHITE DERE, J.