

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1244 OF 2020

Parshuram @ Parshya Ananda Warkari	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Pritam R.Pendor i/by Mr.Pankaj Kavale for applicant.
Ms.Anamika Malhotra, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th March 2021

PC :

1. The applicant along with co-accused is facing prosecution for offence punishable under Section 307 r/w Section 34 of Indian Penal Code.

2. Complainant Subhash Patil is serving as an Executive Engineer in Kalyan-Dombivali Municipal Corporation (KDMC). On 22nd March 2019 at about 06.05 pm, when the complainant was passing by the foot over bridge, leading to Dombivali Railway Station, about 3-4 unidentified persons with scarf tied on their face, came and assaulted the complainant by sharp edged weapon and then the assailants fled away. The complainant informed about the incident to Junior Engineer Mr.Rajput, who managed to take the complainant to ICON Hospital. The complainant lodged a complaint with the concerned Police Station, on the basis of which the offence came to be registered and after investigation, a charge sheet is filed.

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3. On hearing the learned counsel for the parties, it prima facie appears that the FIR was lodged against unidentified persons. After the arrest of the accused, a test identification parade came to be conducted on 5th April 2019 in which the complainant is alleged to have identified the present applicant and others.

4. The learned counsel for applicant submitted that the complainant was not knowing the assailants and as per his own version, the assailants came with a scarf on their face and thus the alleged identification of the assailants by complainant is prima facie unacceptable. He points out that the co-accused have been released on bail by the learned Sessions Judge. He further points that the parity has been denied to present applicant, only on the ground of alleged recovery of a paper cutter from the present applicant. He submits that a paper cutter is a common article and the recovery even assuming to be there, cannot be said to be an incriminating circumstance.

5. The learned APP did not dispute that except the circumstance of recovery of a paper cutter from the present applicant, the applicant is similarly situated with the co-accused, who has been released on bail.

6. On a careful consideration of the circumstances and the submissions made, I do find that parity cannot be denied to the applicant, merely on the ground of alleged recovery of paper cutter, when in all other aspects the applicant is similarly situated with the co-accused, who has been released on bail. Prima facie, regard can also be had to the submission based on the identification of the

assailants by the complainant, when according to the complainant, the assailants had come with a scarf on their face. This is not the stage to record any final opinion, which will have to be gone at the trial.

7. The co-accused Sachin Patil has been granted bail by this Court vide order dated 2nd November 2020. Considering the over all circumstances, bail can be granted to the applicant. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-102 of 2019 registered with Dombivali Police Station, on executing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (iii) The applicant shall undertake to remain present on the dates of hearing before the learned Trial Court during the course of trial;
- (iv) The applicant shall not tamper with prosecution evidence/ witnesses;

8. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

MST