

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2635 of 2021

Suresh Mangaru Thakur @ Guddu .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Vinod Kashid a/w Sumit Bhoite – Advocate for the applicant.

Smt. M. H. Mhatre- APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 8th SEPTEMBER 2021.

P.C:-

1. The applicant came to be arrested on 09.03.2021, in connection with C.R. No. I-78 of 2021, registered at Rabale Police Station, Navi Mumbai. On completion of investigation, the charge-sheet is filed and he is charged under Sections 307, 323, 504, 506 r/w 34 of IPC alongwith two other accused.
2. The charge-sheet compile the material collated during investigation in the wake of accusation of the complainant, that he was assaulted by the accused persons.

When carefully perused, it revolve around an incident dated 07th March 2021, when the complainant along with his associates had visited Trimurti Bar and consumed liquor. The present applicant is alleged to be present there, since he is manager of the said bar and the allegation is that he alongwith accused no. 3-Baba Tyre, dragged him out of the bar by

Seema

assaulting him by fist and blows. When he resisted, it is alleged that the applicant raised a sword at him and verbally abused him. The charge-sheet further allege that when the friends of the complainant ran away from the spot, the accused persons dragged him towards a public toilet and he was beaten by fist and blows. The specific allegation is levelled against accused no. 3-Baba Tyre that he assaulted complainant by means of the scythe and the blow landed on his left arm and right arm as well as on the elbow. It is also alleged by the complainant that he was also assaulted by Baba Tyre, on his neck, below his head and he became un-conscious.

3. The charge-sheet include a CCTV footage, which has been procured, which record the incident but when the Panchnama included in the charge-sheet is carefully perused it records the happenings only up to the point when the complainant was assaulted by the accused by fist and blows. The further version of the complainant about he been assaulted by Baba Tyre causing blood injury is not recorded in the panchnama. The panchnama of the CCTV footage which record the happening outside the Trimurti bar, refer to 4 different files, which are collected from the camera no. 5 located at the top of the bar counter, outside the bar. The said panchnama clearly reflect that at one point of time, the complainant is assaulted by the applicant and his associates by fist and blows and the applicant is armed with scythe, which he raised at the complainant. Some conciliation is also being attempted. In another footage, the

complainant and his accomplice are seen returning to the spot at 00.06.37 hours and they are masked. It is also seen that the complainant is holding a sword, where one of his associates Manish is armed with knife and he is seen proceeding towards Trimurti hotel. The CCTV footage record that thereafter the persons are running away towards Belapur highway. The further happenings are not captured in the said CCTV camera. The injury certificate of the complainant reflect six injuries, all simple in nature, three of which are in the nature of aggravated and three are incise wounds on the left parietal, right maxillary and left forearm.

4. A cross F.I.R. is also registered reporting about the very same incident by one Rajesh Shirke, a associate of the present applicant with the same police station, recorded on 10th March 2021, when the complainant in the other C.R. Shailesh Chavan and his five to six associates are arrayed the accused. The said CR invoke Sections 504, 506, 147, 148, 149, 427 of IPC alongwith Section 4, 25 of the Arm Act and Section 37 of the Maharashtra Police Act.

5. In the wake of accusations the material compiled in the charge-sheet, the role attributed to the applicant prima-facie has surfaced as assaulting the complainant by fist and blows. It is the version of the complainant himself that the applicant has assaulted him by fist and bows, though he raised a weapon at him. He is not alleged to be the author of the injury sustained by the complainant particularly the three incise wounds, which

are attributed to accused no. 3.

6. Since the investigation is complete and the role of the present applicant has clearly surfaced on record, which prima-facie would not indict for the offence punishable under Section 307, but when the said offences are invoked with the aid of Section 304 of IPC common intention being attributed, I see no hesitation to release the applicant on bail pending the trial. This is, however, subject to stipulation that the applicant shall keep himself away from the Taluka Manpada, District Thane, till the charges is framed.

ORDER

- (a) The Applicant – Suresh Mangaru Thakur @ Guddu in connection with C.R.No. I-78 of 2021 registered with Rabale Police Station, Navi Mumbai shall be released on bail on furnishing P.R. bond to the extent of Rs. 25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (d) The Applicant shall mark his attendance in the Sessions Court, Thane, where case is committed, on any day in the first week of every month.

7. The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)