

nsc.

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

CRIMINAL BAIL APPLICATION NO.1611 OF 2020

Tejas Pandit Datilkar

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Kabul Singh Labana, for the Applicant.

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th MARCH, 2021

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No. I-306 of 2018 registered with the Manpada Police Station, Thane, for the alleged offences punishable under Sections 307, 352, 341, 506 and 34 of the Indian Penal Code and under Section 37(1) r/w Section 135 of the Maharashtra Police Act.
3. Learned Counsel for the applicant submits that the applicant has preferred the aforesaid bail application, pursuant to the liberty granted

by this Court vide order dated 26th August 2019 i.e. if, for no fault of the applicant, the trial did not conclude within 12 months, the applicant will be at liberty to file a fresh application seeking his enlargement on bail. Learned Counsel for the applicant submits that co-accused - Sujit Datilkar was the actual assailant as is evident from the statement of the injured – Jayesh Patil. He submits that although the applicant is alleged to have been armed with a wooden log/stick, admittedly the same has not been used by the applicant. He submits that there are no allegations that the applicant was amongst the 3 persons who held the hands of injured – Jayesh Patil, pursuant to which, Sujit Datilkar assaulted injured – Jayesh Patil with a knife in his abdomen and caused serious injuries. He further submits that the applicant has no antecedents.

4. Learned APP opposed the application. He, however, does not dispute the fact that the applicant has no antecedents.

5. Perused the papers in particular the statement of the injured – Jayesh Patil and the injury certificate. A perusal of the statement of Jayesh Patil (injured) shows that in 2017, during Ganapati Festival, there was a quarrel between him and co-accused – Sujit and that in the said incident he had slapped Sujit. He has stated that pursuant thereto, Sujit had

threatened him. He has stated that the incident took place on 5th June 2018 at about 8:40 p.m. The complainant has stated that when he was on his way home, two motorcycles obstructed his motorcycle; that four persons had come on the said two motorcycles i.e. Sujit, Tejas (applicant) Kautik and Raiba; that Sujit was armed with a stone and other three accused with wooden sticks; that Sujit threw a stone on his face, pursuant to which, he fell down; that the three others dropped their wooden sticks and held him, pursuant to which, Sujit pulled out a knife from his pocket and assaulted him with a knife in his abdomen. The injury certificate of injured – Jayesh Patil, had sustained multiple injuries i.e. on his face over right eyebrow and right end of eye, left side of neck and right iliac region of abdomen. Admittedly, the said injuries are caused by co-accused – Sujit. The allegation as against the applicant is that he held Jayesh Patil alongwith other accused, pursuant to which, Sujit assaulted him with a knife, kept in his pocket, in his abdomen. The applicant has no antecedents. Whilst dismissing the first bail application of the applicant, as the Court was not inclined to enlarge the applicant on bail, liberty was granted to the applicant to file a fresh application, in the event trial did not conclude within 12 months.

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. 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 between 10.00 a.m. to 12.00 noon, until further orders;
- (iii) The applicant shall not enter the jurisdiction of Umbharli Village, where the injured resides, till the conclusion of the trial;
- (iv) 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;
- (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 not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) 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.