

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3461 OF 2021

**SONYA @ SONAM BALASO @ BALASAHEB)
SHINDE)...APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Umesh Mankapure, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 17th NOVEMBER 2021
PRONOUNCED ON : 26th NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.29 of 2019 registered with Police Station Islampur, Sangli, for offences punishable under Sections 307, 386, 341, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (IPC),

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under Section 135 of Maharashtra Police Act and under Sections 3(1)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organised Crime Act (MCOC Act).

2 It is the case of prosecution that the applicant along with other co-accused were members of organised crime syndicate. On 15th January 2019, at about 4.00 p.m., in front of a bakery at Shirala Naka, Islampur, accused no.1 namely Sonam Shinde along with applicant other co-accused came there and demanded moneys from the informant, who is running a beer shoppe and a multipurpose hall. It is further alleged that all the accused then started abusing and assaulting the informant. At this stage, applicant allegedly took out a sickle (koyta) and attempted to assault the informant on his neck. However, informant successfully warded off the blow and snatched the sickle and in exercise of his right of private defence, gave a blow on the leg of applicant and then managed to free himself and ran away from the spot.

3 Mr.Umesh Mankapure, learned counsel for the applicant, at the very outset, claims parity on the ground that the other co-accused who is named in the First Information Report (FIR), are released on bail by this Court (Coram : C. V. Bhadang, J.) on 4th January 2021 and trial Court. According to learned counsel for the applicant, he is ready to abide by all the conditions which may be imposed by this Court.

4 Smt.Anamika Malhotra, learned APP, on the other hand, opposed the submissions and contended that ground of parity cannot be claimed as the earlier accused who was released on bail was not named in the FIR, whereas the present applicant is specifically named. The learned APP contended that there are three eye witnesses and then invited my attention to the statement of those eye witnesses, namely, Amit Devichand Oswal, Somnath Mahadev Phalle and Mahesh Vikram Thaker. According to the learned APP, though informant escaped the assault but that does not mean that no offence is committed by the applicant. There being no merit in the application, the same is liable to be rejected.

5 Perused the investigation papers and statement of witnesses relied on by the learned APP. Statement of Amit Devichand Oswal shows that on 15th January 2019, at about 12.30 p.m., he and one Somnath Phalle were chitchatting in front of his shop. At that time, informant came and told that applicant and other accused are harassing him on account of monies. It is his further statement that at that time present applicant and other accused came and told informant that if he wants to do business, then he will have to shell out hafta of Rs.40,000/-, otherwise they would kill him.

6 Next statement is that of Mahesh Vikram Thaker. His statement is in consonance with contents of the FIR.

7 Last statement relied on by the learned APP is that of Somnath Mahadev Phalle, who supports the statement of prosecution witness Amit Devichand Oswal. The only important aspect from the above statements is that the statement of Mahesh Vikram Thaker supports the contents of the FIR. However, the

FIR itself shows when the present applicant tried to assault the informant by means of a sickle but the latter successfully warded off the blow and snatched the sickle and in exercise of his right of private defence, gave a blow on the leg of the applicant. A bare reading of the FIR would show that the applicant in the incident sustained injuries whereas the informant did not.

8 Having regard to the above material, in my considered opinion, the applicant has made out a case for bail. Moreover, the investigation is completed and charge-sheet is filed.

9 In view of above, I pass the following order :

ORDER

- (i) The application is allowed.

- (ii) Applicant – Sonya @ Sonam Balaso @ Balasaheb Shinde shall be released on bail in Crime No.29 of 2019 registered with Police Station Islampur, Sangli, on his executing

PR.Bond in the sum of Rs.50,000/- with one or two sureties in like amount.

(iii) The applicant shall undertake to attend the trial before the learned Special Court.

(iv) The applicant shall not enter the jurisdiction of Police Station Islampur, except for the purposes of attending the trial.

(v) The applicant shall not directly or indirectly make any attempt to contact, influence, threaten or coerce the complainant or any other prosecution witnesses and shall not indulge in any similar act while on bail.

(vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vii) Bail bonds to be furnished before the learned Special Judge.

(viii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(ix) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(x) The application stands disposed off accordingly.

(V. G. BISHT, J.)