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

CRIMINAL BAIL APPLICATION NO.3388 OF 2019

Samarth Bharat Pawar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Vikas Shivarkar, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 19th JANUARY, 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant, aged 19 years seeks his enlargement on bail in connection with C.R. No. 29 of 2019 registered with the Sangli City Police Station, for the alleged offences punishable under Sections 307, 143, 144, 146, 147, 148, 149, 452, 392, 385, 386, 387, 324, 323, 504, 506, 427 r/w 34 of the Indian Penal Code; under Section 4(27) of the Arms Act and under Sections 3 (1)(ii) and 3(4) of Maharashtra Control of Organized Crime Act.

3. Learned Counsel for the applicant submits that the allegations as against the applicant are false and baseless and that there is no material to connect the applicant with the alleged offences. He submits that a perusal of the statement of the complainant will show that the allegations are mainly as against accused No.1 – Pawan Salunkhe, with respect to extortion, taking money from the cash box and of assault. He submits that the prosecution has not placed on record in the charge-sheet, the medical certificates of the complainant – Malhari Bandgar as well as Vikas and Arjun, though they were allegedly assaulted by the accused. He submits that the applicant is not a part of organized crime syndicate as alleged by the prosecution and that the same will be evident from the affidavit filed by the Sub-Divisional Police Officer – Ajit Rajaram Tike, Sangli City, Sangli. He submits that the applicant has one antecedent i.e. one case registered against him prior to this case.

4. Learned APP opposed the application. Learned APP has filed an affidavit of Ashok Tanaji Virkar, Sub Divisional Police Officer, Sangli City, District – Sangli dated 28th February, 2020 and additional affidavit of Ajit Rajaram Tike, Sub Divisional Police Officer, Sangli City, District – Sangli, dated 7th December, 2020, setting out the complicity of the applicant.

5. Perused the papers, in particular the statement of the complainant, both under Section 161 and 164 of Code of Criminal Procedure as well as the statement of other witnesses. At the outset, it may be pertinent to note that although the complainant, Vikas and Arjun have alleged that they were assaulted by the applicant and others with fist and kick blows, the injury certificates have not been placed on record of either of the said witnesses. A perusal of the statements of these witnesses show that the allegations of extortion are primarily as against accused No.1 – Pawan Salunkhe, against whom there are 13 cases registered. There is only one case registered against the applicant i.e. C.R. No.121 of 2018, for the alleged offences punishable under Sections 452, 323, 504, 506 r/w 34 of the India Penal Code. The original accused No.1 – Pawan appears to be a history sheeter. It appears that in the present C.R, there are four accused, out of which 2 are juvenile accused along with the applicant and accused No.1 – Pawan. The 164 statement of the complainant shows that the main allegations are as against accused No.1 – Pawan of extortion and of pulling of cash from the cash-box. There is recovery of koyta, at the instance of the original accused No.1 – Pawan. There is no recovery, either of money or weapon at the instance of the applicant. Having regard to the nature of the allegations as against the applicant and after perusing the material *qua* the

applicant, *prima facie*, it is difficult to come to a conclusion that the applicant is guilty of the offences with which he is charged. The applicant is in custody since January 2019.

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. 50,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first and third Sunday of every month between 10:00 a.m. to 12:00 noon, for a period of 24 months from the date of his release and thereafter on the first Sunday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iii) 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;

- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (vi) The applicant shall not enter the jurisdiction of Sangli City Police Station, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii) and the trial court proceedings;
- (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) The applicant shall not indulge in similar offences in future;
- (ix) If there is a 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 copy of this order, digitally signed by the Private Secretary of this Court.

REVATI MOHITE DERE, J.