

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

938 BAIL APPLICATION NO.381 OF 2022

Namdeo s/o Khanduji Kadpe ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO. 1213 OF 2022

Shaikh Nannubi Shaikh Maheboob ...Applicant

Versus

1.The State of Maharashtra
2.Namdeo Khanduji Kadpe ...Respondents

AND
BAIL APPLICATION NO.382 OF 2022

Siddheshwar @ Siddhu Murlidhar Kekan ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO. 1214 OF 2022

Shaikh Nannubi Shaikh Maheboob ...Applicant

Versus

1.The State of Maharashtra
2.Siddheshwar @ Siddhu Murlidhar Kekan ...Respondents

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Advocate for Applicant : Shri Sudarshan J. Salunke
APP for Respondent – State : Shri G. O. Wattamwar
Advocate for informant to assist PP : Mr. B. B. Dahiphale h/f.
Mr. R. K. Wagh

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CORAM : M. G. SEWLIKAR, J.

DATE : 30th MARCH, 2022.

PER COURT :-

. Criminal Application Nos. 1213 of 2022 and 1214 of 2022 for assist to PP are allowed.

2. These are the applications under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No. 25/2021, for the offence under Sections 307, 354, 354-B, 452, 323, 506 read with Section 34 of Indian Penal Code and under Sections 4/25 of the Arms Act, 1959 registered with Dindrud Police Station, District Beed.

3. From the allegations in the First Information Report, it appears that on 12th February 2022 at about 1.00 a.m., there was a knock on the door of the informant. The informant opened the door. One Namdeo Kadpe entered the house alongwith his brother Tukaram Kadpe with two more persons. Accused Tukaram Kadpe was holding gun. Applicant Namdeo Kadpe asked the informant as to where his son Keshav was. Then the informant told that she had no knowledge about Keshav and then the applicants caught hold both hands of the informant. Applicant Namdeo asked one Siddhu to take out

pistol. Accordingly, Siddhu took out a pistol. Both of them tore the blouse of the informant and Shivhar wife of Zuber. Step son of the informant by the name of Ejaj came down. Accused Siddhu punched him on the face and brandished pistol at him. On these allegations offence under Sections 307, 354, 354-B, 452, 323, 506 read with Section 34 of the Indian Penal Code and under Sections 4/25 of the Arms Act, 1959 came to be registered.

4. Accused Namdeo Kadpe has filed Bail Application No. 381/2022 and accused Siddheshwar alias Siddhu Murlidhar Kekan has filed Bail Application No. 382/2022. Both these applications are being disposed of by common order as they arise out of the same crime.

5. Heard.

6. Learned counsel Shri Salunke for the applicants submits that it is beyond comprehension as to how Section 307 came to be applied when the applicant Siddheshwar had only brandished pistol. He submits that applicant Siddheshwar has a licence for revolver. He submits that since he filed application under Section 156 of the Code of Criminal Procedure against the informant and others, this crime came to be registered.

7. Shri Wattamwar, learned APP and Shri Dahiphale, learned counsel for assisting APP / husband of informant and others submit that offences under Sections 452 and 354 of the Indian Penal Code are clearly made out. They further submit that applicant had taken out a pistol. They further submit that two accused are still absconding. Therefore, none of them deserves to be released on bail. Both of them submit that charge-sheet is yet to be filed. Investigation is still going on. Therefore, applicants may not be released on bail. Learned APP further submits that two crimes are registered against applicant Siddheshwar under Section 379 of Cr.P.C.

8. On perusal of the investigation papers, papers annexed with both the applications, from bare allegations in the FIR, it is quite clear that applicant Siddheshwar, though was possessing revolver did not use it. He was only brandishing pistol. Mere brandishing of revolver cannot attract an offence under Section 307 of IPC i.e. attempt to commit murder. The other offences are triable by the Magistrate. Applicants are behind bars since 13th February, 2022. Having regard to the allegations in the FIR, I am inclined to release the applicants on bail. Hence, the order :

O R D E R

- (i) Both Applications are allowed.
- (ii) Both the applicants be released on P.R. Bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with one solvent surety in the like amount in connection with C.R. No.25/2022, offence under Sections 307, 354, 354-B, 452, 323, 506 read with Section 34 of Indian Penal Code and under Sections 4/25 of the Arms Act, 1959 registered with Dindrud Police Station, District Beed and on condition that they shall not try to contact the informant or any of her family members till the conclusion of the trial and that they shall attend the concerned Police Station on every Sunday between 12.00 noon and 4.00 p.m. till the filing of charge-sheet and shall not enter the village Dindrud till the conclusion of the trial except attending the dates of police station till filing of charge-sheet.
- (iii) Both the applications to assist to APP are allowed.
- (iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]

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