

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 397 OF 2022

Karbhari Vitthal Misal

Applicant

Versus

The State of Maharashtra

Respondent

Mr. R. K. Temkar, Advocate for the applicant.
Mr. S. B. Narwade, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 5th APRIL, 2022.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for enlarging the applicant on bail in connection with Crime No. 0062/2022 registered with Shevgaon Police Station, District Ahmednagar, for the offences punishable under Sections 326, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code.

2. Case of the prosecution is that on 29th January, 2022, at 7.00 am, applicant and other accused started abusing the informant and her family members on account of property dispute. Applicant delivered a blow of iron rod on the head and calf of the husband of

the informant. Accused Navnath Misal delivered a blow of iron rod on the head of Sahebrao, the brother-in-law of the informant. Accused Navnath Misal also assaulted Saurabh, the nephew of the informant, on his head, fingers of left hand and nose. On these allegations, First Information Report came to be lodged.

3. Heard Shri Temkar, learned counsel for the applicant and Shri Wattamwar, learned APP for the State.

4. Learned counsel Shri Temkar submits that offence under Section 326 of the Indian Penal Code is triable by the Magistrate. Injury certificate shows that injured Ganpat Misal was referred to Higher Center for C.T. Brain. This injury was on frontal region. He submits that the injury sustained by Saurabh is simple. Injury sustained by Sahebrao was grievous. Injured witnesses are out of danger. Therefore, there is no justification in detaining the applicants behind the bars for an indefinite period.

5. Learned APP submits that injury to Ganpat Misal was serious. Sajebraro also sustained grievous injuries. He, therefore,

submits that at least till filing of the charge-sheet, the applicant may not be released on bail.

6. On going through the investigation papers, it is seen that investigation is almost complete. Only the formality of presenting charge-sheet remains.

7. Injury certificate shows that Gautam Misal and Saurabh Misal sustained grievous injuries. Medical certificate of all the injured witnesses are produced on record. Witness Ganpat Misal was referred to CHA for C.T. Brain. But report regarding Higher Center is not produced on record. Therefore, there is no record indicating that health condition of Ganpat Misal had deteriorated. Weapons are seized. Trial is not likely to commence in near future. Applicant has no criminal antecedents. He is not likely to flee from justice. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.25,000/- (Rs. Twenty Five Thousand) with one

solvent surety in the like amount in connection with Crime No. 0062/2022 registered with Shevgaon Police Station, District Ahmednagar, for the offences punishable under Sections 326, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, on condition that he shall not interfere in the investigation, shall not pressurise the witnesses and shall attend the concerned police station as and when called by the Investigation Officer.

iii) Application is 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)
Judge