

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

BAIL APPLICATION NO. 834 OF 2022

Sukhdev Kisanrao Garje

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. S.R. Andhale, Advocate for applicant

Mr. G.O. Wattamwar, A.P.P for respondent – State

Mr. N.B. Narwade, Advocate for informant

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CORAM : R.G. AVACHAT, J.

DATE : 14th JULY, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 996 of 2021 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 279, 337 of the Indian Penal Code and under Sections 184, 177, 134-A, 134-B of the Motor Vehicle Act, 1988.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. In short, the case of the prosecution is that the informant – Vaibhav is a second year student of B.Sc. (Agri.) in Dr. Annasaheb Shinde

College of Agricultural Technology, Kasar Pimpalgaon, Tq. Pathardi. His father passed away in July 2020. Pension received by her mother is the only source of their living. The applicant had an acquaintance with the informant's father. On his demise, the applicant started visiting the house of the informant. The applicant is a retired police sub-inspector. He insisted the informant's mother to keep illicit relationship with him. The mother refused. Both, the mother and the informant had, therefore, asked the applicant not to visit their residence. The applicant has, therefore, grudge against the informant. He had given threats to life of the informant.

4. It so happened that on 28th December, 2021 by 03.00 p.m. the informant was proceeding on his scooty (moped) towards Pathardi. A bluish-black colour Marshall vehicle was following him. It was being driven by the applicant. The vehicle knocked down the informant from behind. The informant fell-off the scooty. With a view to save himself, the informant rushed towards a roadside hotel, "Madhuban". The applicant again turned his vehicle on the spot and followed the informant with a view to run the vehicle over him. The informant fortunately saved the bid on his life. The persons from the nearby served the informant water and brought him to Sub-District Hospital, Pathardi. He was then shifted to Civil Hospital, Ahmednagar. He then lodged the F.I.R. against the applicant herein.

5. Learned A.P.P and learned counsel representing the informant would submit that the applicant was a retired police sub-inspector. There is eye witnesses account to indicate the applicant to have attempted to run the vehicle over the informant. A video shooting of the alleged incident, with some photographs, of the CCTV footage were shown to make-out a case of being an attempt to commit murder of the informant. Both the learned counsel would submit that the investigation is still underway. They, therefore, urged for rejection of the application.

6. Learned counsel for the applicant would, on the other hand, submit that there is delay in lodging of F.I.R. The averments in the F.I.R. would indicate the falsity thereof. The applicant is a sixty eight years old. He has some monetary transaction with the mother of the informant. The vehicle has been seized. The applicant was not driving the same at the relevant time. According to learned counsel, the investigation is almost over. He, therefore, urged for grant of application.

7. Considered the submissions advanced. The applicant is behind the bars for little over two months. From the nature of offence it appears that investigation is almost complete. The F.I.R. runs into 4/5 pages. There is delay of little over twenty four hours in lodging the F.I.R. It is not that incident did not take place. It, however appears from the averments in the

F.I.R. that the incident is exaggerated. According to the informant, the applicant came from his behind driving the vehicle fast and knocked him down. Had such thing been happened, the scooty of the informant would have been substantially damaged. The photographs of the scooty indicate that it's rear view mirror only got smashed. The nature of injuries suffered by the informant are simple, that too as follows :-

- (i) Numbness in left arm
- (ii) Complain of pain in back region
- (iii) Grazed laceration in right lower back
- (iv) Laceration in right hand base of palm

8. Considering the nature of the alleged offence and the fact that the applicant is behind the bars for little over two months, it is desirable to grant him bail, more so, when he is little over sixty five years of age.

9. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 996 of 2021 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 279, 337 of the Indian Penal Code and under Sections 184, 177,

134-A, 134-B of the Motor Vehicle Act, 1988, on executing PR. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(IV) The applicant shall not enter the Pathardi town until conclusion of trial.

(R.G. AVACHAT, J.)

SSD