

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

BAIL APPLICATION NO. 1392 OF 2022

Ganesh Shivshankar Gaikwad	... Applicant
Versus	
The State of Maharashtra	... Respondent

....

Mr. C. C. Deshpande, Advocate for applicant
Mr. A. V. Deshmukh, APP for respondent - State

....

WITH

CRIMINAL APPLICATION NO. 3087 OF 2022

Ajay Nagappa Sagare	... Applicant
Versus	
The State of Maharashtra and others	... Respondents

....

Mr. R. D. Biradar, Advocate for applicant
Mr. A. V. Deshmukh, APP for respondent no.1 - State
Mr. C. C. Deshpande, Advocate for respondent Nos. 2 and 3

....

CORAM : R. G. AVACHAT, J.

RESERVED ON : 30th SEPTEMBER, 2022

PRONOUNCED ON : 04th OCTOBER, 2022

PER COURT :-

1. Criminal Application No. 3087 of 2022 is allowed. The original complainant is permitted to assist the learned APP.

2. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.258/2022, registered at AUSA Police

Station, District Latur, for the offences punishable under Sections 326, 307, 504 read with 34 of the Indian Penal Code.

3. Heard. Perused the First Information Report (FIR) and related papers.

4. The FIR has been lodged by the victim himself on 26.07.2022. It is his case that he runs a hotel and Beer-Bar by name, “Shital Bar & Restaurant”, at AUSA mode. On 25.07.2022 by 10.50 p.m., he was parking his motorbike opposite his hotel, the applicant and co-accused Dnyaneshwar came together. They questioned the informant as to why did he put obstacles in opening of a Bar by one of the applicants, Dnyaneshwar. The co-accused Dnyaneshwar fished out an iron rod and assaulted the informant on his head. While the applicant Ganesh assaulted him on his calf with a stick. On such, by name Akshay Mitkari and Mahadev Shete, came to the informant’s rescue. The applicant and co-accused then fled on their motorbike.

5. The learned Advocate for the applicant would submit that the offence committed by the applicant would at the most be punishable under Section 324 of the Indian Penal Code. The applicant is in jail for about two months. He, therefore, urged for grant of application.

6. The learned APP and the learned Advocate for the informant would, on the other hand, submit that because of the assault, the informant is unable to make movements. He suffered number of fractures. Investigation is underway. They, therefore, urged for rejection of the application.

7. Considered the submissions advanced. Perused the FIR and the related papers. The C.C.T.V. footage wherein the entire incident has been captured, was placed on record. This Court watched the same in open Court to find the applicant herein (Ganesh) was not armed with the stick, nor did he assault the informant with stick. After the co-accused assaulted the informant, the present applicant gave a kick in his back. It is also seen that the applicant threw chilli powder on the face of the informant. Considering the role played by the applicant in the offence in question, this Court is inclined to grant him bail. Hence, following order:

ORDER

- (i) The Bail Application of applicant No.2 Ganesh Shivshankar Gaikwad, is allowed.

- (ii) The applicant No.2 (Ganesh Shivshankar Gaikwad) be released on bail in connection with Crime No.258/2022, registered at AUSA Police Station, District Latur, for the offences punishable under Sections 326, 307, 504 read with 34 of the Indian Penal Code, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant (Ganesh) shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS