

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1708 OF 2022

Santosh s/o. Uttam Gaikwad,
Age 38 years, Occu. Agri.,
R/o. Kesapuri, Taluka Majalgaon,
District Beed.

.. Applicant

Versus

The State of Maharashtra
Through Majalgaon City Police Station,
Majalgaon, Taluka Majalgaon, District Beed

.. Respondent

Mr. Bhagwan S. Kudale, Advocate for Applicant;
Mr. S. B. Narwade, A.P.P. for Respondent/State

CORAM : S. G. MEHARE, J.

DATE : 14-11-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant is seeking bail under Section 439 of the Code of Criminal Procedure, 1973, in Crime No. 73 of 2022 registered with Majalgaon (City) Police Station, Taluka Majalgaon, District Beed, for the offence punishable under Sections 307, 329, 397 read with Section 34 of the Indian Penal Code.

3. It has been alleged against the applicant that on the day of the incident, he entered the hotel and asked about Rajesh Mendke. The informant told him that he did not know. He assaulted informant with iron rod and when his brother-in-law Kailas Jadhav intervened, applicant assaulted on his head. Due to the assault, Kailas Jadhav has suffered grievous fracture injury to skull. He was hospitalized till 08.04.2022. The applicant has been arrested on 09.06.2022.

4. The learned counsel for the applicant would submit that when injured Kailas Jadhav intervened, he suffered injuries. Therefore, there was no intention to injure him. The first informant is in brotherhood of the applicant. The chargesheet has been filed. The allegations have been exaggerated that the applicant deliberately assaulted the first informant. He had suffered simple injury. Immediately after the incident, another injured Kailas was admitted in Sanjivani Hospital and on the next day, he was discharged. Considering the dispute between the complainant / first informant and applicant, the applicant has been falsely implicated in the crime. The investigation is over. The chargesheet has been filed. Hence, the applicant may be released on bail.

5. The learned A.P.P. has strongly opposed the application. First of all, he would argue that there are ten crimes to the discredit of the applicant. The applicant has been charged for the offence under the provision of M.P.D.A. Act as well as Section 135 of the Maharashtra Police Act. The applicant has been repeatedly involved in the serious crimes. He is a history sheeter. As far as this case is concerned, the applicant has seriously injured Kailas Jadhav. He has suffered serious injury on his skull. Considering the antecedents to the discredit of the applicant, the prosecution has apprehension of repeating the crime, threatening the witnesses and fleeing away from the prosecution. The apparent material is available against the applicant that he was very much aggressive. He did not heed to the request made by injured Kailas, who was trying to intervene the quarrel. The offence is apparently serious. Hence, the applicant may not be granted bail.

6. Perused the chargesheet. It appears that the applicant with other person entered the hotel of the complainant with weapon. Entering the place of other person with weapon is self sufficient evidence of intention to commit the crime. Not only this, one Kailas Jadhav has tried to intervene the dispute. The applicant assaulted him on head. He has suffered a serious injury. His statement is very specific that due to injury, he has suffered minor hearing difficulty. The medical report also supports his contention.

The prosecution has direct evidence against the applicant. It seems that he was aggressive. Apart from the above allegations, there are ten crimes to the discredit of the applicant including the cases under the M.P.D.A. Act and prohibitory action under the Maharashtra Police Act. The material available against the applicant is sufficient to believe that, he has no *prima facie* case for bail.

7. For the above reasons, the application stands dismissed.

(S. G. MEHARE)
JUDGE

rrd