

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1731 OF 2022

SAGAR GOVIND KHARAT AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Avinash N. Barhate Patil
APP for Respondent : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 23-11-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The applicants have filed present application for bail under Section 439 of the Code of Criminal Procedure in C.R.No. I-255 of 2022 registered with Rahata Police Station, District Ahmednagr, for the offences punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal Code.
3. The learned counsel for the applicant in brief has argued that injured Amol Waghmare in his statement did not state that the present applicants have assaulted him. He has specifically stated that Pankaj and Sagar did not assault the injured with iron rod. He would refer to the affidavit of the injured dated 20.07.2022 and argue that the injured, who is the best witness has sworn in an

affidavit that his supplementary statement dated 24.06.2022 is incorrect and co-accused Sagar, Pankaj and others have not committed a crime and he has no complaint against them. He would argue that the weapons have been seized from the applicants under discovery panchnama. The injured has not suffered serious injury. He has been discharged from the hospital. There are no antecedents to their discredit. On the affidavit of injured Amol Baban Waghmare, other two persons were granted anticipatory bail. The chargesheet has been filed. Further custody of the applicants is not required. Hence, the applicants may be granted bail.

4. The learned A.P.P. has strongly opposed the application and would explain that in the affidavit filed by the complainant, the names of the applicants have not been mentioned. Hence, the applicants can not take the benefit of the affidavit. There is recovery of weapons at the instance of the applicants. The offence is serious. Hence, the applicants may not be granted bail.

5. The injured is the best witness. He has sworn in an affidavit that his statement of 24.06.2022 is incorrect. The complainant has been discharged from the hospital. There is no danger to his life. The weapons have been recovered from the applicants. The injured, who is the best witness, appears not trustworthy. The applicants are young boys having no antecedents. For these

reasons, the applicants deserve to be released on bail. Hence, the following order :-

- i) The application is allowed.
- ii) Applicant Nos. (1) Sagar Govind Kharat and (2) Aniket Govind Kharat be released on bail, on furnishing PB and SB of Rs.15,000/- each, with one solvent surety of the like amount, in C.R.No. I-255 of 2022 registered with Rahata Police Station, District Ahmednagar, for the offences punishable under Sections 307, 323, 504, 143, 147, 148, 149 of the Indian Penal Code, on the condition that they shall not tamper with the prosecution witnesses.

**(S. G. MEHARE)
JUDGE**

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