

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

935 BAIL APPLICATION NO.1662 OF 2022
WITH APPLN/3473/2022 IN BA/1662/2022

SUDHIR PARASRAM GHEGADE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Karpe Rahul R.
APP for Respondent-State : Mr. S. B. Narwade.
Advocate for Complainant to Assist APP : Mr. N. B. Narwade.

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CORAM : S. G. MEHARE, J.
DATE : 20.10.2022

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the complainant.

2. It is the argument of the learned counsel for the applicant that considering the allegations levelled against the applicant, no case under Section 307 of the IPC, is made out. He also referred to the charge sheet and argued that the assault to the injured was not on the vital part of the body. Hence, his intention to kill cannot be gathered. The injured has been discharged from the hospital. The evidence does not inspire the confidence. The statement of the injured reveals

that the applicant attempted to assault him on his head. But, he blocked the assault by his hand and therefore, his two fingers were cut. Co-accused No.2, Sandeep has been enlarged on bail. Recovery of weapon has been done. The statement of the witnesses are inconsistent. The injured has exaggerated his statement. In view of the material collected by the Investigating Officer, the further detention of the applicant is not essential.

3. Learned APP would point out that since the first incident happened in marriage ceremony, the present applicant was consistently in contact on phone with the contract killer, the co-accused. Thereafter, the incident happened. The intention is to be gathered from the acts committed by the applicant. The applicant was intending to kill the applicant assaulting him on his head. However, the applicant blocked the assault by hands and his fingers were very badly cut. He has also referred to the injury report. Further, he would argue that the applicant has a terror in the village. For no reason, the applicant assaulted the injured. There was a C.D.R. report showing that the applicant was in consistent contact with the contract killer. That apart, there is other incriminating evidence against the applicant.

The applicant did not deny his presence on the spot of the incident.

4. Learned counsel for the complainant has supported the arguments of learned APP and would point out that considering the aggression of the applicant, there is every possibility of threatening the witnesses and the complainant has an apprehension of danger to his life, if the applicant would be released on bail.

5. Perused the charge sheet. A consistent statement has been made by the injured that the applicant tried to assault him with sickle on his head. However, he blocked it by hand and his fingers have been severely cut. His statement is supported with the medical report. The C.D.R. report also indicates that the applicant was consistently in contact with co-accused, who is allegedly the contract killer. The record produced by the learned APP corroborates his contention that there were number of cases pending against the alleged contract killer. As far as, Section 307 of the IPC is concerned, the injury is not at all required. The conduct of the assailants is material. At the same time, while doing the act, the intention or knowledge and circumstances are also to be considered.

6. Perusal of the statement of the injured and other witnesses is a sound proof to believe that the applicant had an intention to commit the murder. He tried to assault the injured on his head. However, due to his obstruction, his two fingers were badly cut. Therefore, this Court does not found force in the argument of the learned counsel for the applicant that the vital part of the body of the injured has no injury, therefore, there was no intention to kill him.

7. After having gone through the allegations levelled against the applicant and the relevant material collected by the applicant, the Court is of the view that, at this juncture, it cannot be accepted that the applicant had no intention to commit the murder. However, a strong material is available against him. Therefore, the Bail Application stands dismissed.

8. Criminal application No.3473 of 2022 to assist the learned APP is also allowed.

(S. G. MEHARE, J.)

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vmk/-