

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1480 OF 2021

SAMBHAJI SHAMA BAGUL
VERSUS
THE STATE OF MAHARASHTRA

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Mr. C.C. Deshpande, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 22th DECEMBER, 2021

PRONOUNCED ON : 04th JANUARY, 2022.

ORDER :

1 Present applicant is named as accused No.1 in Crime No.204/2021 registered with Dhule Taluka Police Station, Dist. Dhule, for the offence punishable under Section 307, 143, 147, 148, 149, 354, 326, 324, 323, 504, 506 of the Indian Penal Code, 1860. Applicant came to be arrested on 08.06.2021. He prays for bail under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. C.C. Deshpande for the applicant

and learned APP Mr. A.M. Phule for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 First Information Report has been lodged by one Sanjay Ashok Gaikwad in respect of incident dated 07.06.2021. He states that at about 9.30 p.m. his wife came running and told that the present applicant had pushed her and abused. Therefore, the informant, his parents and younger brother went in front of house of one Eknath Bagul. At that time, present applicant had again abused those persons and gave threats. The Police Patil and Deputy Sarpanch had mediated and, therefore, the informant and others came home. However, at about 10.00 p.m. the informant learnt that the present applicant and others have come to assault them and, therefore, he immediately went to his old house. He could see present applicant and other accused persons abusing. Present applicant was holding stick. The informant states that the present applicant had assaulted his parents with stick. Accused Vinod gave blow with intention to commit murder of brother of informant, which was resisted by his hand by the brother of the informant, resulting in cut injury to the hand. Accused Jagdish had then assaulted Suklal-brother of the informant with axe on his head. Accused Samadhan has also assaulted the parents of the informant by scythe, resulting in cut injuries to fingers of the hands of the parents. Thus, the role attributed to the

present applicant is assault by stick. It appears that the investigation is over and charge sheet is also filed and the case is committed to the Court of Sessions bearing Sessions Case No.129/2021. This indicates that the applicant's custody is not required for the purpose of investigation. The statements of the witnesses recorded under Section 164 of the Code of Criminal Procedure are also on the same line. However, witness Sushilabai i.e. mother of the informant states that present applicant was holding scythe in his hand and present applicant had assaulted her son Suklal by scythe on his head. The said blow was resisted by Suklal by his left hand, causing injury to left hand. Important point to be noted is that as per the First Information Report, that blow was given by accused Vinod. Even the father of the informant states the same thing. The statement of Suklal under Section 161 of the Code of Criminal Procedure would show that he was assaulted by accused Vinod by scythe, which he has resisted, causing injury to his hand. He does not say that he was assaulted by present applicant by scythe. Wife of informant also states as stated in the First Information Report as well as by Suklal. Statement of the wife of informant recorded under Section 164 of the Code of Criminal Procedure states that all the accused persons had assaulted with axe, scythe and stick. The alleged weapons have been seized under Section 27 of the Indian Evidence Act. Injury certificate of Suklal shows that there was fracture injury to the head and two other

abrasions over frontal region and right hand. The nature of the injury stated to be grievous. The injury certificates of the parents of the informant would show that they had received simple injuries.

4 Another fact, that is, required to be considered is that it appears that the present applicant has criminal background. He is involved in – 1) **Crime No.147/2019** dated 05.05.2019 under Section 143, 147, 148, 149, 452, 323, 504, 506 of the Indian Penal Code, 1860 and under Section 3(1)(R) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 2) **Crime No.199/2019** dated 09.06.2019 under Section 295 read with Section 34 of the Indian Penal Code and under Section 3(1)(R)(S)(T)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 3) **Crime No.353/2020** dated 10.10.2020 under Section 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, 1860, under Section 3(2)(v), 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 37(1)(c)/135 of the Maharashtra Police Act and 4) **Crime No.354/2020** dated 11.10.2020 under Section 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860. However, as regards the role attributed to the present applicant is concerned, it appears that he had assaulted the parents of the informant with stick and it has caused simple injuries. Therefore, with stringent conditions he deserves

to be released on bail. The condition will have to be included that he shall not commit any similar offence and if such offence is registered, then, the prosecution would be at liberty to apply for cancellation of bail, as offences against body appear to have been registered against this applicant in the past also. In order to keep peace and harmony in the area, this condition is necessary. With these observations, following order is passed.

ORDER

1 Application stands allowed.

2 Applicant viz. Sambhaji Shama Bagul, who has been arrested in connection with crime No.204/2021 dated 08.06.2021 registered with Dhule Taluka Police Station, Dist. Dhule, for the offence punishable under Section 307, 143, 147, 148, 149, 354, 326, 324, 323, 504, 506 of the Indian Penal Code, 1860, be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner.

4 He shall not commit any similar offence. If any further offence

against body is registered against the present applicant, the prosecution is at liberty to file application for cancellation of this bail.

5 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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