

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

27 BAIL APPLICATION NO.1524 OF 2021

**CHIRAG RAJPAL BIDLA
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents/State : Mr. S.B. Narwade
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 10th January, 2022**

PC.:-

This is an application under Section 439 for enlarging the applicant on bail.

2. Case of the prosecution in nutshell is that the informant and deceased-Sameer Khan had been to a Beer Shoppe. At that time three persons were chit-chatting amongst themselves. One of them abused Sameer Khan (since deceased) saying “ ये छिनालके इधर क्यो आया ”. Thereupon, informant said to that person that he (unknown person) was drunk. Thereupon, that unknown person slapped on the face of the informant. When deceased-Sameer Khan intervened, that person stabbed deceased-Sameer Khan in the groin. Sameer Khan fell unconscious. He has given description of the person who assaulted the deceased-Sameer Khan. On these allegations FIR came to

be lodged against unknown persons vide Crime No.19/2021 registered with City Chowk Police Station, Aurangabad under Section 302, 323, 504 read with Section 34 of the I.P.C.

3. I have heard learned counsel Shri Ghanekar for the applicant and Shri Narwade learned APP for the State.

4. Learned counsel Shri Ghanekar submits that in the FIR the role assigned to the unknown person is that the unknown person started brandishing knife and stabbed the informant in the groin. Learned counsel Shri Ghanekar further submits that in supplementary statement role is changed. In the supplementary statement, it is stated that the person who was brandishing knife did not assault but another accused took the knife from the person brandishing the knife and stabbed Sameer Khan. He submitted that this change of role happened as the person who actually alleged to have stabbed the deceased is a juvenile.

5. Learned APP Shri Narwade submits that persons who assaulted were unknown to the informant. Therefore, in the statement under Section 161 of the Cr.P.C. he has assigned this role as till that time informant had not seen CCTV footage. On seeing CCTV footage the informant came to know the person who had actually assaulted the deceased. Therefore, there is no

change of role. He submitted that knife is recovered at the instance of the applicant. He further submitted that in the identification parade applicant has been identified to be the assaulter. The number of the motorbike given by the informant tallies with the number of the motorbike seized during investigation. He submits that in view of this voluminous evidence the applicant may not be released on bail.

6. It is worth noting that the informant, the deceased, the applicant and the accused were not knowing each other. On perusal of the FIR, it can be made out that the person who had taken out the knife is the person who assaulted the deceased. However, in the supplementary statement recorded on 15.01.2021 the informant changed the role. He states in the supplementary statement that one person was brandishing the knife and the other person took that knife and stabbed the informant in the groin. This clearly shows that informant has changed the role. In the FIR he alleges that the person who had taken out the knife was the person who stabbed the deceased, whereas, in the supplementary statement he states that the person who took out the knife did not stab the deceased but another person took the knife and stabbed the deceased. As stated earlier the applicant and the informant and the deceased were unknown to each other. Applicant does not have criminal antecedents. Incident appears to have happened on the spur of

the moment. He will be available for trial as he has permanent residence at Aurangabad. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.50,000/- with one solvent surety in the like amount, in connection with Crime No.19 of 2021 under Section 302, 323, 504 read with Section 34 of the I.P.C. with City Chowk Police Station, Aurangabad on condition that he shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]