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

BAIL APPLICATION NO.2004 OF 2022

VISHAL DATTATRAYA GANGAWANE
VERSUS
THE STATE OF MAHARASHTRA

Mr. Sandeep B. Rajebhosale, Advocate for applicant;
Mr. S. B. Narwade, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 22nd December, 2022

PC.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The incident took place as the brother of the applicant and the injured had some hot exchange of words in the hostel. The applicant came on the spot of the incident and assaulted the injured with a knife on his neck. It has been alleged against the applicant that till 05.10.2022, he was absconding.
3. The learned counsel for the applicant would submit that there are no antecedents to his discredit. The applicant is 23 years old young boy pursuing competitive examinations. It was the outcome of assault on his brother. He had no intention to kill the injured. Recovery of the knife at his instance was done under pressure.

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Nothing is to be recovered from the applicant. The trial make take its own time. Hence, he may be released on bail.

4. Learned A.P.P. has strongly opposed the application. He read the observations recorded by the learned Additional Sessions Judge, Shrigonda, District Ahmednagar, in the order dated 07.11.2022 passed in Criminal (Bail) M. A. No.753 of 2022. While considering the bail application, the observations of the Sessions Judge need not be considered, as bail application before this Court is not a revision or appeal. The application has to be dealt with independently. The learned A.P.P. also argued that the applicant went to the spot of the incident with a weapon. The knife used to assault the injured was recovered at the instance of the applicant under Section 27 of the Indian Evidence Act. There are eyewitnesses to the incident. The statements of the witnesses and the injured recorded under Section 164 of the Code of Criminal Procedure support the prosecution case. The offence is serious. Hence, he may not be granted bail.

5. Perused the papers. The first information report reveals that previously there was quarrel between the brother of the applicant and the injured. The applicant went on the spot. They had quarrel. The applicant assaulted the injured with a knife. However, the learned counsel for the applicant would state that the injured was discharged within eight days from the hospital; hence, injury cannot be

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considered as grievous injury. Now there is no danger to the life of the injured. The way in which the incident happened has bearing on the case. The age of the applicant is also a factor to be considered. Admittedly, there are no antecedents to the discredit of the applicant. The chargesheet has been filed. For these reasons, the Court is of the view that his further detention would serve no purpose. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant – Vishal Dattatraya Gangawane, be released on bail, on furnishing PB and SB of Rs.50,000/- with one solvent surety of like amount, in C.R.No.0592 of 2022 registered with Shrigonda Police Station, Taluka Shrigonda, District Ahmednagar, for the offence punishable under Sections 307, 450 and 452 read with Section 34 of the Indian Penal Code, on the conditions that;
 - (a) The applicant shall not contact the injured or any other witnesses.
 - (b) The applicant shall not enter in the town where the witnesses and the injured are taking education, till conclusion of the trial.

(S. G. MEHARE, J.)

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