

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 198 OF 2022

Shivam @ Shiva @ Shivling Vitthal Jadhav

Age – 24 years, Occ. Labour,

R/at Plot No.78, Manjunath Nagar,

Settlement, Solapur

At present Solapur Central Prison

.. Applicant

Vs.

The State of Maharashtra

(Through Vijapur Naka Police station,

Solapur Vide CR No. 223/2018)

.. Respondent

.....

Mr. Priyal G. Sarda for the applicant

Mrs. S.S. Kaushik, APP for the respondent – State

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CORAM : PRITHVIRAJ K. CHAVAN, J.

RESERVED ON : 26th JULY, 2022.

PRONOUNCED ON : 28th JULY, 2022

P.C.

1. By this application, the applicant who is one of the 12 accused, has been arrested by respondent for the offences punishable under Sections 307, 324, 141, 144, 145, 146, 147, 148, 149, 504, 506 of the Indian Penal Code and under Section 4(25) of the Arms Act.
2. The prosecution story in brief is as follows.

3. The incident is of dated 24th April, 2018 which occurred around 1.30 p.m. at Solapur. On that day, the first informant – Sagar Shivaji Shinde and his family members were present in the house. At that time, they heard ruckus and commotion outside the house. Somebody was calling the first informant outside the house. When the father of the first informant and their servant Siddhu Mude went outside of the house, co-accused Sandesh Suryavanshi and Pankaj Shinde assaulted him with fist and kick blows and were inquiring about Sagar. When the co-accused Sandesh Suryavanshi was about to assault father of the first informant with a sword, their servant Siddhu Mude intervened, resulting into a blow of the sword getting inflicted on his left hands wrist. Cousin of the first informant namely Rohit Gavali and Nana Parashuram Gavali tried to rescue the injured and the father of the first informant, however, they too sustained injuries due to the assault by the unlawful assembly of the accused.
4. The accused, thereafter, escaped from the spot by giving threats to the informant and to his family members. Siddhu Mude sustained a grievous injury to his left hand as it was found broken from the wrist. One Sanket Taval and Sonu Javir also sustained injury. It is a specific case of the prosecution that applicant herein had assaulted on the head of Sanket Taval by means of meat cleaver (sattur).
5. I heard Mr. Sarada, learned Counsel for the applicant. The learned Counsel would argue that eight accused had already been enlarged on bail by the Sessions Court after putting

certain conditions. Since charge-sheet is filed nothing is to be recovered from the applicant. However, ever since his arrest on 7th January, 2020, the applicant has been incarcerated. As such, learned Counsel would argue that looking to the overall circumstances and the facts as well as the aspect that the applicant did not intent to commit murder of the injured, he is entitled to be released on bail, pending the trial. Learned Counsel further submits that the applicant will abide by any conditions which would be imposed by this Court. He also submits that even on the ground of parity the applicant is entitled to be released on bail.

6. Learned APP, on the other hand, opposed the application only by contending that after the incident the applicant had absconded for a considerable long period.
7. Admittedly, charge-sheet has been filed and the Sessions Court is seized of the matter. It is not in dispute that the eight accused have already been released on bail and, therefore, the applicant also can be released on bail on the ground of parity. No doubt, the offence is serious and grave, yet, at this stage, it would not be proper to venture to refer the merits and demerits of the case.
8. It is equally true that there are eye-witnesses, nevertheless, no purpose would be served in keeping the applicant behind the bars as the trial is not likely to be concluded within a reasonable time. There are no antecedents qua the applicant. It is also apparent from the record that the quarrel was ignited

on 15th March, 2018 when, it is alleged, that the applicant along with other co-accused had assaulted son of the maternal aunt of the first informant namely Shreyas Telang. The informant had rescued his cousin Shreyas Telang from the clutches of the accused and had warned the applicant and other co-accused not to consume liquor in the rented room of one Reshma (Netabai). It seems that the applicant and others had a grudge on account of the said warning given by the first informant and, therefore, they threatened him to cause his death. All these aspects would be gone into by the trial Court on merits, as already stated above.

9. Considering the aspect discussed hereinabove, following order is passed :-
 - (i) The application is allowed.
 - (ii) The applicant be released on executing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount to the satisfaction of the Sessions Court.
 - (iii) The applicant shall not leave the jurisdiction of Sessions Court, Solapur, without seeking prior permission.
 - (iv) The applicant shall furnish his Mobile number and permanent address to the Sessions Court.
 - (v) The applicant shall not in any manner whatsoever influence any of the prosecution witnesses.
10. Application is disposed of in the above terms.

(PRITHVIRAJ K. CHAVAN, J.)