

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.384 OF 2022

Tejas @ Balya Santosh Shinde .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Sujit Sahoo with Ratuj Warick and Aditya Talpade for the applicant.

Mrs. Anamika Malhotra, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 20th JUNE, 2022

P.C:-

1 The applicant came to be arrested on 20/9/2019 in connection with C.R.No. 332/2019 registered with Koparkhairane police station invoking Sections 307, 504 read with Section 34 of the IPC.

 The applicant seek his release on bail on the ground that the charge-sheet is filed on completion of investigation and the applicant being a young boy, and a student, is unnecessarily incarcerated, though he is ready to assure his presence in the trial.

2 On 15/9/2019, one Atul Kamble, resident of Koparkharne, and a contractor by profession lodged a report, stating that on 14/9/2019, since it was the birthday of his friend Vasant, he along with his cousin brother and one of his friend had gone for dinner. While he was returning back, he received a call from Vasant informing him that the person accompanying him i.e. Santosh had a discord with some unknown person and he should check. Accordingly, when the complainant went in search of Santosh, he was traced. While the complainant was inquiring with him, one Rakesh More and Balya (applicant), accompanied by 6 – 7 persons arrived at the spot in rickshaw and scooty. The complainant specifically narrate that Rakesh and Balya were armed with the wooden rod of the spade and they started quarelling with the complainant and his friends on account with previous quibble with Santosh. When Vasant attempted to restrain them, he caught hold of by Rakesh and his two associates, whereas the present applicant, Balya is alleged to have hit in his head by means of the wooden rod, which resulted into a bleeding injury. Vasant became unconscious and he was taken to trauma ward and received treatment.

3 The aforesaid narration resulted in registration of FIR against the two named accused persons and other unknown persons, with the role attributed to the applicant clearly surfacing on record.

4 The injured who was taken to the hospital, was admitted in ICU and on CT Scan of the brain, reveal subdural hemorrhage and was transferred to MGM Hospital, Vashi, where tracheotomy was performed. The MGM hospital certify his treatment as under :-

“Duration of treatment Emergency Surgery left FTP Decompressive Craniotomy with Removal of Acute SDH and Parietal removal of Left Temporal ICH was done on 15/09/2019 and Tracheostomy done on 22/09/2019”

The injury was described as ‘grievous injury’ and the hospital certified as under :-

“Patient did not regain full consciousness and was unconscious in whole duration of admission to till discharge (Transfer) 24/09/2019”

No doubt, the injury was of a grave nature and would have proved to be fatal resulting into the death of Vasant. Unfortunately, the statement of the victim Vasant is not recorded till date, and when the learned APP is asked about it, she state that for a considerable point of time, he was unconscious and, therefore, his statement could not be recorded. During the course of investigation, the spot panchnama was prepared and the statement of Santosh Pariskar, Dnyaneshwar Pariskar, who were

present on the spot came to be recorded. The two witnesses have narrated the entire incident which corroborate with the statement of the complainant and the applicant is stated to have assaulted Vasant in his head. Undisputedly, the injury caused to Vasant is at the instance of the applicant.

5 On an earlier occasion, when the applicant approached this Court, seeking temporary bail, it came to be rejected on 19/8/2020. On second occasion, his regular Bail Application No. 805/2020 also came to be rejected by this Court on 1/8/2021 by recording that the injuries sustained by the victim was capable for causing death and therefore, he did not deserve his release.

 However, being cognizant of the fact that the applicant is 20 year old person with no criminal antecedents, and he was incarcerated since September 2019, the applicant was granted liberty to renew his request for his enlargement on bail, if the trial had not commenced on or before 31/12/2021.

 In the wake of the liberty, the present application is filed. It is informed by the learned APP that till date, the trial has not commenced and even the charge has not been framed.

6 The earlier order granting liberty to renew the request for being released on bail was considered by me, since the trial would take longer time as even the charge is not framed, as on date. When an explanation was sought as to why the charge is not

framed, the learned APP is unable to throw any light, nor is the prosecution ready to give the time limit within which the trial can be concluded, in a time-bound manner.

Therefore, I considered the merits of the matter and once again focused on the material contained in the charge-sheet, which prima facie indict the applicant for an offence punishable u/s.307 of IPC. The injury caused to the victim on the vital part of the body could have resulted into his death, if not properly treated and the intention of the applicant in assaulting him on the vital part of the body has also surfaced through the statements of various witnesses who were present on the spot. However, since the applicant is a young boy and considering the prevailing criminal jurisprudence which is focussed on reformation of an accused person, his young age is a mitigating factor which persuade me to release him on bail, by imposing strict conditions, upon him of not interfering/tampering with the prosecution evidence and with an assurance that he shall face the trial.

The applicant who is accused of a serious offence, shall no doubt face the consequences of the material compiled in the charge-sheet, but I do not feel that pending the trial, he shall remain incarcerated. There are no antecedents reported against him and expecting that he will not misuse his liberty, he is directed to be released on bail on the following conditions :-

ORDER

- (a) In connection with C.R.No.332/2019 registered with Koparkhairne Police Station, applicant Tejas @ Balya Santosh Shinde shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount. The applicant shall be released on a temporary cash bail for a period of six weeks.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicant shall not leave Thane district till the conclusion of the trial.
- (d) The applicant shall attend trial on every date, unless granted exemption.

7 Application is disposed off in the aforestated terms.

(SMT. BHARATI DANGRE, J.)