

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1083 of 2022

Vijay Sheshrao Mhaske .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Dinky M. Gurnani for the applicant.
Mrs. Rutuja Ambekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 18th AUGUST 2022

P.C:-

1. Heard the learned counsel for the applicant and learned APP for the State.

The applicant face charge under section 307 read with 34 of IPC and section 4/25 of the Arms Act. The incident which took place on 5/11/2021, reported to Vitthalwadi police station resulted in registration of C.R. No. I-328 of 2021, against two named persons and one unknown person. Applicant came to be arrested on 9/11/2021, and on completion of investigation charge-sheet is filed on 4/02/2022.

2. The charge-sheet allege that the accused persons conspired together and mounted an assault on the complainant, Dattatray Gaikwad, since the wanted accused Vikram Gaikwad's mother had issued a power of attorney in favour of the informant. Being

agitated by the said act, it is allege that co-accused Vijay Mhaske along with two other accused persons arrived on the motorcycle outside the office of the complainant. As far as the present applicant is concerned the charge-sheet accuse him of guarding the door as he kept standing near the motorcycle, and the two other accused persons entered in the office of the complainant, and assaulted him in his head by means of scythe and sword, with an intention to kill him.

The medical certificate refer to 3 CLW's on the right and left temporal region, as well as 1 CLW on occipital region. The said injuries are opined to have been caused due to sharp object like sickle, knife, sword etc.

3. Going by the case of the prosecution, the applicant is not the assailant, but he kept guarding the door, with an intention that no person should come to the rescue of the injured. He has been roped in the said crime with the aid of section 34 of IPC, for sharing common intention.

Considering that the applicant is not one of the assailant, he may take the consequences of his act coupled with section 34, of sharing the common intention, since he brought the co-accused persons on the spot on his motorbike and help them to flee away from the spot after commission of the offence.

However, on the investigation being complete and the material against the applicant being crystallized in form of charge-sheet, his further incarceration becomes unwarranted, and deserve his liberty. Hence, the following order :-

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Vijay Sheshrao Mhaske shall be released on bail in connection with C.R. No. I-328 of 2021 registered at Vitthalwadi Police Station, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) 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. The Applicant should not tamper with evidence.
- (d) The Applicant shall mark his attendance to the concerned police station on every Tuesday of the trimester between 10:00 a.m to 12:00 noon, and thereafter as and when required by the Investigating Officer.
- (e) On his release he shall furnish contact number and his address of residence to Investigating officer.

(SMT. BHARATI DANGRE, J.)