

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1766 of 2022

Amit Varadraj Bhat .. Applicant
Versus
The State of Maharashtra .. Respondent

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Adv.Suvarna Avhad Vast with Ranjeet Unnikrishnan and Sachin Kanse for the applicant.
Mrs.Rutuja Ambekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 19th SEPTEMBER 2022

P.C:-

1 The applicant face charge in FIR registered with NRI Sagari police station and is charged u/s.307, 120B, 341, 326, 506, 143, 144, 147, 148, 149 of the IPC, Sections 4 and 25 of the Arms Act and Section 37(1) and Section 135 of the Maharashtra Police Act. In connection with the said C.R, he came to be arrested on 18/10/2021 after eight days from the date of the alleged incident. On completion of investigation, the charge-sheet has been filed on 15/5/2022.

2 Heard learned counsel for the applicant and learned APP for the State. I have perused the charge-sheet which compile

the material against the applicant and in short, comprise of the prosecution case. The complainant is one Brijesh Bharat Patil, who reported about an incident which took place on 9/10/2021 at 5.30 p.m when he was enroute from CBD Belapur. After dropping his friend who was the pillion rider, when he started proceeding towards Tandel ground, he was suddenly hit on his head by a weapon, and he turned back to notice two persons. When he attempted to drive away, he was intercepted by another motorcycle with two persons upon it.

It is alleged that they got down from the motor cycle and by means of a pointed weapon, started assaulting. He named three of the assailants and it is alleged that they uttered that since he was responsible for depriving of them of the contract, of Grand Central Mall, he should face the consequences. It is alleged that they continued to assault him.

3 On 20/10/2021, he recorded his supplementary statement and absolved the named persons and stated that they were not at all present on the spot, but the person who was present, was his acquaintance Jasmine Tandel who was instigated by Amit Bhat i.e. the present applicant and he had sent six persons to assault him.

As a consequence of the said statement, the three persons who are arraigned as accused, were not charge-sheeted.

4 The learned APP state that the applicant is not the actual assailant but he has conspired to cause injuries to the complainant and therefore, he is charged u/s.120B of IPC. When asked to point out the material to that effect, she would rely upon statement of one person Dipesh Panchal, who had stated that he owned a motorcycle bearing MH-03-BQ-5315 and the applicant had borrowed the motorcycle from him on 9/10/2021 and which was returned on 10/10/2021 and he came to know from NRI Sagari police station that this vehicle was used in commission of crime.

5 When the learned APP is asked to produce the material to that effect and about the basis on which this part of evidence is collected and compiled in the charge-sheet, she state that there is a CCTV footage, but there is no panchnama of the CCTV footage. She was asked to obtain instructions from the Investigating Officer, who is present in the Court, about the relevance of the said motorcycle which was alleged to have been borrowed by the applicant from Dipesh Panchal, but unfortunately, the Investigating Officer is not able to respond. The charge-sheet, however, disclose that the applicant is not the assailant and in absence of any cogent and reliable evidence which would *prima facie* establish the charge us.120-B against him, he deserve his release on bail.

Observations made above are prima facie in nature and limited for the purpose of adjudication of the present applicant, and shall in no way, bind the Sessions Judge while he is trying the applicant for the offence with which he is charged.

Hence, the following order :

ORDER

- (a) The Applicant – Amit Varadraj Bhat in connection with C.R.No.241/2021 registered with NRI Sagari Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or more sureties of the like amount.

The applicant shall be released on cash bail of Rs.25,000/- in lieu of sureties for a period of six weeks. During the said period, the applicant shall arrange for the sureties.

- (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. The Applicant should not tamper with evidence.

- (c) The Applicant shall attend the concerned police station on first Monday of every trimester between 12 noon to 3.00 p.m .
- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)