

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2945 OF 2021

PRATIK @ NONYA SANJAY WAGHMARE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Rohan Hogle h/f. Mr.Sachin Thombare, Advocate for the Applicant.

Mr.Ameet Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 9th DECEMBER 2021
PRONOUNCED ON : 3rd JANUARY 2022**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.1671 of 2020 registered with Police Station Hadapsar, for offences punishable under Section 307, 143, 144, 147, 148, 149 of the Indian Penal Code (IPC), under Section 4(25) of the

AVK

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Arms Act, under Section 37(1) and 135 of Maharashtra Police Act and under Section 7 of Criminal Law Amendment Act.

2 According to the prosecution, one Sujit Verma, friend of accused Yogesh Pansare, was murdered by informant's friends and because of this accused Yogesh Pansare was nursing grudge against the informant. On 1st December 2020, accused Yogesh Pansare gave a blow of sickle on the head of informant while accused Nonya Waghmare i.e. the present applicant gave a blow of sickle on the back of informant. The informant, accordingly, lodged the First Information Report (FIR).

3 Mr.Rohan Hogle, learned counsel for the applicant, at the very outset, claims parity as according to him accused Yogesh Pansare has been released on bail by the learned Additional Sessions Judge, Pune, on 5th March 2021. The application of present applicant came to be rejected only on the ground of antecedents, which according to the learned counsel was not a justification, having regard to the alleged role played by the

applicant. Moreover, investigation is over and charge-sheet has been filed. In such circumstances, the applicant also deserves to be released on bail.

4 Mr.Ameet Palkar, learned APP, on the other hand, fairly submits that there are only antecedents against the applicant. In such circumstances, the learned Additional Sessions Judge was justified in rejecting the application.

5 Perused the investigation papers. It is apparent from the FIR that the accused Yogesh Pansare had allegedly assaulted on the head of the informant by means of sickle and despite that, the learned trial Court was pleased to release him on bail. As far as the applicant is concerned, he also had, allegedly, used sickle while assaulting the informant. I have also gone through the medical papers filed on record. It appears from the Discharge Summary issued by Life Care Multi Speciality Hospital that the informant had sustained CLW over right side of occipital region. Although it is alleged by the prosecution and as also by the

informant that he was given a blow of sickle on his back by the applicant but no such injury is noted from the Discharge Summary, so given by the said hospital.

6 In such circumstances, in my view, the applicant is better placed than accused Yogesh Pansare. As far as antecedents are concerned, it may be that there are antecedents but those antecedents should be appreciated qua the nature of offence in hand and the role played by the applicant. I have also pointed out his role vis-a-vis the role of Yogesh Pansare.

7 Having regard to above, in my view, the learned Additional Sessions Judge was not justified in rejecting the bail application of the applicant. Rather, a case for bail is made out. Hence, I pass the following order :

ORDER

- (i) Applicant – Pratik @ Nonya Sanjay Waghmare shall be released on bail in Crime No.1671 of 2020 registered with Police Station Hadapsar, on his executing P.R. Bond in the

sum of Rs.25,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)