

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2923 OF 2021

Mayur Ashok Lokhande ...Applicant
Versus
The State Of Maharashtra ...Respondent

• • • •

Dr. Uday Warunjikar a/w Ms. Sonali R. Chavan, Advocate for the Applicant.

Mr. M. G. Patil, APP for the Respondent – State.

• • •

CORAM : PRAKASH D. NAIK, J.
DATE : 21st OCTOBER, 2022.

KAWRE
KIRAN
KALYAN

Digitally
signed by
KAWRE
KIRAN
KALYAN
Date:
2022.11.22
13:48:27
+0530

PER COURT:

1. The applicant is seeking Bail in FIR No. I-354 of 2019 registered with Chinchwad Police Station.
2. The first information report was lodged on 6th October, 2019 by Suraj Dilip Jagtap alleging that, the first informant was conducting mobile repair shop at Chintamani Chowk. On several occasions he was harassed by Mayur Lokhande, Pankaj Jagtap, Kishor Ingale and Jaid Mujawar. On account of harassment, he closed the shop in July, 2018. He again reopened the shop few days ago. The first informant and his friend Amit Subhash Pote were working in the said shop. The aforesaid persons again started harassing the first informant and his friend Amit Pote. The

aforesaid persons were trying to create terror in the area. On 5th October, 2019 the first informant, his friend Amit Pote and others were performing Aarti at Yedeshwari temple. At that time Mayur Lokhande, Pankaj Jagtap, Kishor Ingale and Jaid Mujawar came there. All of them tried to drag Amit Pote from the said place. They were restrained from doing so by people gathered at the spot. After completing Aarti they went home. At about 11.00 p.m. the complainant and others heard some commotion at the rear side of house. It was seen from the house that, the said persons who were dragging Amit Pote at the place of Aarti were creating ruckus. The first informant intervened and questioned them. He was threatened and assaulted. All of them charged at first informant with wooden log and sickle. Amit Pote came to the spot. All of them started assaulting Amit Pote. They assaulted him with wooden log. The first informant and others started running from the spot. They chased Amit Pote. He was assaulted with sickle. He suffered injuries. The assailants ran away from the spot. Injured was taken to hospital, FIR was initially registered under Section 307, 323 and 506 read with 34 of the Indian Penal Code (for short "IPC"). Amit Pote succumbed to injuries. Section 302 of IPC was added. Applicant was arrested on 5th February, 2020. On completing investigation charge-sheet was filed.

3. The applicant preferred an application for bail before the Court of Sessions at Pune. The said application was rejected vide order dated 16th December, 2020.

4. The learned Advocate for the applicant submitted that, the applicant is in custody for substantial period of time. The allegations in the FIR and the statements of the witnesses are vague. No specific role is attributed to the applicant. There is no recovery of weapon from the applicant. The investigation is over and charge-sheet is filed. Co-accused are granted bail. Reliance is placed on order granting bail to co-accused Najim Ansari and Sagar Waghmode by this Court, vide order dated 19th April, 2022, bail order dated 27th June, 2022 granting bail to co-accused Pratik Kamble, Sainath Aahiwale and order dated 27th June, 2022 granting bail to Shriram Wankhede by the Court of Sessions.

5. Learned APP submitted that, the offence is of serious nature. The applicant has participated in the crime. Role has been attributed to the applicant. He was one of the assailant. The deceased had suffered several injuries. The case of co-accused can be distinguished. The crime is brutal. The applicant and his associates are creating terror in the area. There are eye witnesses to the incident. Reliance is placed on the medical papers of the

deceased and submitted that, the deceased had suffered seventeen injuries. Four other cases were registered against the applicant with Chinchwad Police Station and one case is registered with the Yerwada Police Station and Nigdi Police Station.

6. Learned counsel for the applicant submitted that, the application need not be rejected only on the basis of criminal antecedent. C.R. No.288 of 2011 was registered with Nigdi Police Station and the case is pending for trial. The learned Principle Magistrate Juvenile Justice Board, Pune had issued certificate dated 17th January, 2017 stating that C.R. No.288 of 2011 is pending against the applicant who was alleged juvenile in conflict with law. As per section 19 of Juvenile Justice (Care and Protection of Children) Act 2000, he shall not suffer any dis-qualification in the case of conviction or acquittal. Even if the case is shown against him at Juvenile, the said crime is required to be ignored for any purpose. He is not disqualified to get any job or government service.

7. The incident had occurred on 5th October, 2019. The first informant had alleged that, the applicant Pankaj Jagtap, Kishor Ingale and Jaid Mujawar were troubling the first informant while he was conducting mobile repairing shop. He was required to close

the shop, which was reopened by him recently. Amit Pote was working in his shop. All the aforesaid person again started troubling them. They were trying to create terror in the area. On 5th October, 2019 the above named persons came to the temple where first informant, Amit Pote and others were performing Aarti and tried to drag Amit Pote from the spot. At about 11.00 p.m. they came near the house of the first informant they were armed with wooden log and sickle. They chased Amit Pote and assaulted him. The applicant has been specifically named in the first information report. He had also participated in the previous incident occurred on the same day. Supplementary statement of the first informant was recorded on the same day. In the said statement several persons are named as assailants. Smt. Alka Subhash Pote is the mother of deceased Amit Pote. She is the eye witness to the incident. She tried to intervene in the assault. She has stated that, the applicant had assaulted Amit Pote there are eye witnesses to the incident. The victim had suffered seventeen injuries. There is sufficient evidence to show involvement of the applicant. There are criminal antecedents against the applicant. The role of the persons to whom bail is granted can be distinguished. Hence no case is made out for grant of bail.

8. Hence I pass the following order:-

ORDER

. Criminal Bail Application No. 2923 of 2021 is rejected.

(PRAKASH D. NAIK, J.)