

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3054 OF 2021
ALONGWITH
INTERIM APPLICATION NO.1342 OF 2022
IN
BAIL APPLICATION NO.3054 OF 2021

Hiten Gulbir Thakur	]			
@ Hitendra Gulbir Thakur	]	..		Applicant
vs.				
State of Maharashtra	]	..		Respondent

Mr.Monish Bhatia for Applicant.

Mr.Jeetu Kukreja i/b Monty Teckchandani for Intervenor.

Mr.S.V. Gavand, APP for the State.

API Popat Nale, AEC, Crime Branch present.

CORAM : BHARATI DANGRE, J

DATE : 24th AUGUST, 2022.

P.C.

1] The Applicant is a young boy aged 23 years, who came to be arrested in connection with CR No.I-266/2022 registered with Vitthalwadi Police Station which invoke offence punishable under Section 307, 120(B) read with 34 of the Indian Penal Code and under Section 3, 25, 27 of the Arms Act and under Section 37(1), 135 of the Bombay Police Act. The Applicant came to be arrested on 24.10.2020

and languishing in jail despite filing of charge-sheet and it is stated that till date charge has not been framed.

2] Heard the learned counsel for the parties.

The learned counsel for the Applicant has placed reliance on the order passed in the case of co-accused Sagar Kiran Shinde who has been released on bail by this court on 22.03.2022 (BA No.4490/2021) , considering the discrepancy in the statement of victim as regards number of assailants as well as the weapon used and also on appreciating the fact that the charge-sheet is already filed.

3] The charge-sheet would reveal that the complaint is filed by one Sandeep Gaikwad who claimed to be in construction business and proprietor of Saibaba Enterprises which deal in hardware products.

It is alleged that on account of some dispute as regards personal work, the incident took place on 21.10.2020, when he went to meet one Jahagir at Ulhasnagar and informed him that he had reached the particular location, where he was asked to come. They reached at Shriram Chowk, Ulhasnagar and he alongwith Jahangir got down from car and started walking, suddenly one person wearing black T shirt and black pant assaulted him on his head by means of iron rod. Another person is alleged to have fired at him causing fire arm injury to his right leg, below knee. At that time, the police vehicle was seen approaching the spot and he sat in the police vehicle.

The complainant allege that the assailants boarded their vehicle and fled away from the spot which was noticed to be a silver colour Hundai Car, whose description was given.

In the supplementary statement, the complainant state that he was unable to give actual version of the incident and he attributed

motive in his supplementary statement to a rival group and has also stated that he had contested election from Ulhasnagar constituency in the year 2014 and 2019. He further stated that on 21.10.2020 three rounds were fired at him and the first bullet merely touched his face and second he avoided as he bent down and the third one hit him in his right leg. He expressed the apprehension that the attack was mounted by Michael and his associates and there was danger to his life.

4] During the course of investigation, statements of several witnesses were recorded, and they are compiled in the charge-sheet and six persons were named as accused out of whom four were arrested.

In the test Identification Parade the Applicant was identified as the person who fired at the complainant and co-accused Sagar was identified as the person who assaulted him with a sickle on his head.

The injury certificate corresponds to the alleged firing at the instance of Applicant since there is entry wound seen corresponding to the exit wound on the lower 1/3rd calf. The version of the complainant is at variance as regards the weapons used and number of assailants. The Applicant has been identified as the person who is responsible for the firm arm injury and considering the location of the injury being in right calf muscle, on completion of investigation when the entire material is compiled in the charge-sheet, the applicant deserves his release on bail.

5] The learned APP has invited my attention to the criminal antecedents attributed to the Applicant, which reveal that he has several CRs registered against him under the Gambling Act and apart from this, he is also accused of offences punishable under Section 323,

324, 504, 506 of the Indian Penal Code in two distinct CRs. Prohibitory action was also initiated against him under Section 110 of the Cr.P.C.

6] In the wake of accusation being faced by the Applicant and on the investigation being completed, no fruitful purpose would be served by keeping the Applicant behind bar. However, interest of the prosecution also warrant a consideration and it would be served better if the Applicant is restrained from entering into the jurisdiction of Ulhasnagar city, except for the dates on which he would be directed to report to the concerned Police Station, for marking his attendance.

7] Needless to state that the observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

(a) Application is allowed.

(b) Applicant – Hiten Gulbir Thakur @ Hitendra Gulbir Thakur shall be released on bail in connection with C.R.No.I-266/2020 registered at Vitthalwadi Police Station on furnishing P.R. bond to the extent of Rs.50,000/- with one or more sureties of the like amount.

The Applicant shall not enter the Ulhasnagar City and on his release, the Applicant shall provide his contact number and address where he is likely to reside after being released on bail.

(c) The applicant shall report to the concerned Police Station on first Monday of every month between 10.00 a.m. to 11.00 noon barring from this attendance, he shall not step into jurisdiction of Ulhasnagar.

(d) 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.

(e) The Applicant shall regularly attend trial, on every date, unless he is exempted.

(f) Interim Application is also disposed off.

[BHARATI DANGRE, J]