

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2579 OF 2022

1. Amjad Yusuf Pathan	]		
2. Irshad Shamsuddin Shaikh	]		
3. Baban @ Babdya Nagesh Wani	]	..	Applicants
vs.			
State of Maharashtra	]	..	Respondent

Mr.Vivek M. Punjabi, for the Appicants.

Mr.S.H. Yadav, APP for the State.

PSI J.A. Bhosale, Thane Nagar Police Station.

CORAM : BHARATI DANGRE, J

DATE : 11th NOVEMBER, 2022.

P.C.

1] The Applicants are facing accusation under Sections 186, 353, 427 read with 34 of the Indian Penal Code in CR No.69/2019 registered with Thane Nagar Police Station, District-Thane. Barring Section 353 of the IPC, Section 427 and 186 areailable offences.

Applicant No.1 came to be arrested in the subject CR on 16.12.2020, whereas, Applicant Nos.2 and 3 came to be arrested on 15.12.2020.

2] With the able assistance of the learned counsel for the Applicant and the learned APP, I have perused the charge-sheet placed on record.

The complaint is filed by PSI Sudhakar Kadam who was assigned duty at the strong prison party between Thane Jail to Thane Court.

On the particular day i.e. on 06.03.2019, he accompanied with seven other associates carried 9 prisoners to Thane Court at around 2.00 p.m. After the proceedings at Thane Court were over, it is alleged that the relatives of some of the prisoners came with home food and while the food was being served to one of the prisoner by a burkha clad woman, it was objected, since there was no permission from the Court. This agitated the accused persons and their family members and the complainant then describe alleged misbehaviour with the police officers. It is alleged that they were obstructed from discharging their duty and one of the Accused also broke his mobile in which the incident was being recorded.

The complaint, is, therefore, lodged against 9 accused persons out of whom, it is informed that two are already been released on bail by the Sessions Court.

3] The offence under Section 353 of the IPC is punishable with imprisonment upto 5 years by Maharashtra Amendment Act and as regards other two offences, they are bailable. I need not focus on the said aspect while considering the material compiled in the charge-sheet.

The case of the prosecution is fortified by other witnesses in respect of the unruly behaviour of the prisoners and it definitely deserve a trial. However, injury certificate placed on record do not reflect serious injury sustained to any of the police personnel.

4] In the wake of above, and particularly when it is informed that as

far as CR no.65/2022 is concerned, which invoke Section 302 of the IPC and provisions of MCOC Act, accused persons have been acquitted by the Special Court. It is the same offence in which the prisoners/Applicants were taken to the Court where the alleged incident had taken place.

The Applicants have undergone more than two years imprisonment and therefore they deserve their release on bail.

5] 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) Applicants – Amjad Yusuf Pathan, Irshad Shamsuddin Shaikh and Baban @ Babdya Nagesh Wani shall be released on bail in connection with C.R.No.69/2019 registered with Thane Nagar Police Station, on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (c) The Applicants shall mark their attendance before the Investigating Officer on first Monday of every month between 3.00 p.m. to 5.00 p.m.
- (d) The Applicants 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 shall not tamper with evidence.

(e) The Applicants shall regularly attend trial, on every date, unless exempted.

(f) Upon release, the Applicants shall furnish their contact numbers and permanent residential addresses to the Investigating Officer and shall keep him updated in case of change in the same.

[BHARATI DANGRE, J]