

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3487 OF 2021

Suraj Shyam Jadhav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Shailesh Kharat, for the Applicant

Ms. P.N. Dabholkar, APP, for the State.

VISHAL
SUBHASH
PAREKAR

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Date: 2022.07.09
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CORAM : N. J. JAMADAR, J.

DATE : JULY 07, 2022

P.C.:

1. By this application under section 439 of the Code of Criminal Procedure, the applicant who is arraigned in C.R. No. 105 of 2021 registered at Chaturshringi police station, Pune for the offences punishable under sections 307 and 323 read with 34 of Indian Penal Code, 1860 and section 37(1)(3) read with 135 of Maharashtra Police Act, 1951, seeks to be enlarged on bail.

2. The prosecution case runs as under:

On 21st February, 2021 at about 11.30 pm Mahesh Kamble (the first informant) and his friend Ajinkya Sabale (the injured) had gone at Vadar Wadi, Katraj, Pune to fetch medicine. While they were approaching towards the medical store, a person wearing a saffron colour shirt bumped into the first informant. The said

person slapped the first informant and also gave a kick on the stomach of the injured. He was accompanied by two other associates. They also manhandled the first informant and the injured. While the first informant was inquiring with them as to what was the matter, the person wearing saffron colour shirt picked up a glass bottle, broke it and gave a blow on the throat of the injured. The first informant fled away to save himself. When the assailants also fled away, he found the injured walking towards the signal holding his throat. He was admitted in Ratna Hospital. The informant thereafter lodged the report.

3. The applicant has preferred this application with the assertion that there is no incriminating material to connect the applicant with the crime. Investigation is complete for all intent and purpose. Charge-sheet has been lodged. Further detention of the applicant is wholly unwarranted.

4. I have heard Mr. Shailesh Kharat, learned counsel for the applicant and Ms. P.N. Dabholkar, learned APP, for the State. With the assistance of the learned counsel, I have perused the report under section 173 of the Code and the documents annexed with it.

5. To start with, it is imperative to note that the injury certificate issued by Aditya Birla Memorial Hospital indicates that the injured had sustained a cut injury over neck at level cricoid, approx size 3 x 1 cm. The said injury was grievous. Tracheostomy was performed. In addition, the injured had sustained laceration over neck. The discharge summary at Deenanath Mangeshkar Hospital and Research Center indicates that the injured had narrated history of assault by sharp object. A cut injury, linear horizontal 3 x 1 cms with penetration into neck just below cricoid cartilage was noticed. Thus, there is, prima facie, material to show that the injured had sustained a life threatening injury.

6. On the aspect of the identity of the assailant, it is pertinent, for the first informant assailant was an unknown person wearing a saffron colour shirt. The injured Ajinkya was in unison on the point that the person wearing saffron colour shirt assaulted him by means of a broken glass bottle. Evidently, for both the first informant and Ajinkya, the assailant was an unknown person.

7. It would be contextually relevant to note that in the test identification parade held on 30th March, 2021 the first informant Mahesh Kamble did not identify the applicant as the person who

assaulted the injured. Two of the co-accused namely Kishor Vitkar and Tushar Vitkar were, identified. Both Kishor and Tushar have, however, been released on bail by the learned Sessions Judge.

8. The injured, prosecution states, did not turn up for T.I. parade.

9. In the aforesaid view of the matter, at this stage, prima facie, the aspect of the identity of the applicant as the person who assaulted the injured by means of broken glass bottle, is in the realm of uncertainty.

10. Even otherwise, the injured was discharged post tracheostomy. Investigation is complete for all intent and purpose. Charge-sheet has been lodged. Further detention of the applicant thus seems unwarranted. The applicant also appears to have roots in society. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Suraj Shyam Jadhav be released on bail in connection with C.R. No. 105 of 2021 registered at Chaturshringi police station, Pune on furnishing a P.R. Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount, to the satisfaction of the learned Session Judge.

3] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

4] The applicant shall attend Chaturshringi police station, Pune on the first Monday of every alternate month for a period of one year or till framing of the charge whichever is earlier.

5] The applicant shall furnish his permanent address and contact details to the investigating officer within eight days of his release from prison and intimate change, if any.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

All concerned to act on an authenticated copy of this order.

(N. J. JAMADAR, J.)