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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3795 OF 2021

Nagnath Bhiva Gurgude ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr. Prashant S. Hagare for the Applicant.
Mr. H.J. Dedhia, APP for the Respondent -State.

.....
CORAM : V.G.BISHT, J.
RESERVED ON : 13TH DECEMBER, 2021
PRONOUNCED ON : 20TH JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 646 of 2021 registered with Indapur Police Station, Pune Rural for the offence punishable under Sections 307, 327, 324, 504 and 506 of the Indian Penal Code (the IPC) and Section 4 (25) of the Arms Act.

2. The prosecution case in short is that, on 11th July, 2021 while informant was sitting in his courtyard, accused Nagnath

Bhiva Gurgude (applicant), Somnath Shivaji Javale, Nitin Gorakh Bhosale, Mauli Dattu Khabale and Swapnil Ghoghare along with one Prakash Shinde and three unknown persons came in front of his house. All were armed with swords. The applicant and Somnath Javale then asked informant that he should handover the tenement situate at Babhoolgaon Chowk failing which they would commit his murder but informant refused.

3. Prosecution alleges that the applicant and said Somnath Javale then gave blows of swords on the head of informant with a view to kill him but as the informant raised his both hands, blows landed upon his both hands and he fell down. When informant's father Shahaji Dashrath Umbare and cousin Ramchandra Popat Umbare came to his rescue, the persons accompanying applicant and said Somnath Javale assaulted them by means of swords.

4. Prosecution further alleges that accused Nitin Bhosale then forcibly removed a gold chain weighing 3.5 tolas and a

ring of 0.5 tola from the person of informant and went away, after giving threats of life. The informant accordingly lodged the First Information Report (FIR).

5. Mr. Hagare, learned Counsel for the applicant, submits that some of the accused, namely, Swapnil Ghoghare, Somnath Shivaji Javale and Mauli Dattu Khabale have already been granted bail by the trial Court. Learned counsel also invited my attention to the injury certificate pertaining to informant and pointed out the injury allegedly suffered by him. Recovery is also done. Investigation is over. Charge-sheet has been filed. There are no criminal antecedents. The trial may take its own time. In such circumstances, the applicant may be enlarged on bail, urged learned Counsel.

6. Mr. Dedhia, learned APP, on the other hand, opposes the submissions by contending that the role of present applicant has been clearly specified inasmuch as the applicant had used sword while assaulting informant. Learned APP also placed reliance on the injury certificate and would point out the

grievous injury sustained by informant at the hands of applicant and other accused. There being no merit in the application, same is liable to be rejected, argued learned APP.

7. Perused investigation papers including injury certificate pertaining to informant. As far as the role of present applicant is concerned, it is alleged that he had tried to give a blow of a sword on the head of informant but the same was shielded on the both hands by informant/ injured and in that process, he sustained grievous injury, which is apparent from the injury certificate. It also appears from investigation papers that sword allegedly used by applicant in the commission of offence came to be seized pursuant to the memorandum statement given by applicant under Section 27 of the Evidence Act. Investigation is over. Charge-sheet has been filed. No criminal antecedents are forthcoming.

8. Having regard to the material on record and the fact that trial may take its own time to reach its logical conclusion, no purpose would be served by keeping the applicant behinds the bars.

9. In view of above, I am inclined to allow the application.

Hence, the following order :

ORDER

(i) Applicant- Nagnath Bhiva Gurgude shall be released on bail in C.R. No. 646 of 2021 registered with Indapur Police Station, Pune Rural on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)