

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

CRIMINAL BAIL APPLICATION NO. 3816 OF 2021

Altaf Mahamad Hanif Majagaonkar ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Umesh Hanmantrao Pawar, Advocate for the Applicant.

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

Mr. Ajit Tike, sub-divisional police officer, sangli city police station present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th OCTOBER, 2022

PER COURT:

1. The applicant is arrested on 05.09.2022 in connection with C.R. No. 281 of 2020 registered with Sangli City Police Station for offence punishable under Sections 307, 143, 147, 148, 149 of the Indian Penal Code.

2. The FIR was lodged by one Shravan Pujari on 04.09.2022. It is alleged that on 03.09.2020 the first informant's brother Rakesh had called him and informed that he is released from jail and presently he is at Walmiki Aawas and requested to send newphew Avinash to bring

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him home. Accordingly first informant sent Avinash to bring Rakesh. One Anil Waghmare called the informant and informed that someone had assaulted Rakesh on his head and he is unconscious. First informant went to the hospital and found that Rakesh was unconscious. He spoke to Avinash. He was informed by Avinash that when he went at Walmiki Aawas Rakesh was talking with Ajay Kamble, Altaf Majagaonkar (applicant), Sohel Ankalni, Ramjan Shaikh, Baba. He was taken to place where dumper was stationed. The applicant and others caught hold of hand of the injured Rakesh and Ajay Kamble assaulted him with sword on his head. The injured suffered two injuries. He was hospitalized. Investigation was completed and charge-sheet was filed. Provisions of MCOC under Section 3(1)(ii), 3(2) and 3(4) of the MCOC Act were invoked.

3. Learned advocate for the applicant submitted that only overt act attributed to the applicant is that he caught hand of the injured. The applicant is aged around 19 years. The earlier six cases registered against him were registered when he was juvenile. Those proceedings are pending before the juvenile justice Board. There is no material to indicate that the applicant was acting as member of crime

syndicate. The applicant is in custody for two years. Further custody is not necessary.

4. The prosecution has filed affidavit opposing prayer for grant of bail. Learned APP submitted that the presence of the applicant and participation in the crime is established by the statements of witnesses. The applicant is having criminal antecedents. Six other cases registered against him. The present one is the seventh case. In two cases, the applicant is involved with gang leader Ajay Kamble and other cases the applicant is involved with co-accused. Hence, bail may not be granted to the applicant. Confessional statement of the applicant was recorded under Section 18 of the MCOC Act.

5. From the statements of the first informant and other witnesses it is apparent that the applicant was allegedly present at the place of incident and caught hold of hand of the injured. Co-accused had assaulted the injured by giving blow of sword. There are two injuries on the injured person. The record indicate that the applicant was involved in six other cases in the past. Those cases were registered against him as juvenile. The applicant is in custody for last

two years. Considering the overtact attributed to the applicant in the present crime, the age of the applicant and factual matrix indicated above, in spite of restrictions under Section 21(4) of MCOC Act, bail can be granted to applicant.

ORDER

- (i) Criminal Bail Application No. 3816 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 281 of 2020 registered with Sangli City Police Station on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (iv) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)