

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4128 OF 2021

Atul Kumar Dilip Kumar Gupta .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Francis A. Caszo i/b K.H. Associates for the Applicant.

Ms. Veera Shinde, A.P.P. for the State/Respondent.

Mr. Sukumar Patil, PSI, RCF Police Station.

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CORAM: BHARATI DANGRE, J.
DATED : 6th SEPTEMBER, 2022

P.C:-

1. The applicant came to be arrested on 28/5/2020, since he was accused of committing murder of one Prashant, and on the incident being reported to R.C.F Police Station, CR No. 152 of 2020 was registered which invoke sections 302, 307, 326, 143, 144, 147, 148, 149, 506 (2) of IPC, section 4, 27 of the Arms Act section 37(1) and 135 of Maharashtra Police Act. On completion of investigation, charge-sheet has been filed against 12 accused persons out of whom 9 persons are released on bail.

2. Learned counsel for the applicant has placed reliance upon the orders passed in case of the co-accused, who are released on bail and one such order being passed on 28/10/2021, by this

court in case of co-accused Ajit Gupta in BA No. 2315 of 2021.

3. On perusal of the order, it can be seen that the role attributed to the applicant has been appreciated by the court, being, his presence on the spot and he holding Iron rod. It is recorded that since similarly placed accused are already released on bail and no criminal antecedents are attributed to him, he was also entitled for his release.

The learned Additional Sessions Judge however refused to release the applicant on bail, on considering the gravity of the offence and the likelihood of tempering with the witnesses.

4. When the complaint filed by the Pralhad Panwalkar is perused, it can be seen that as regard the incident dated 5/5/2020, he has specifically narrated, that the co-accused were armed with Sword, whereas Rajesh Yadav, Ajit Gupta and the present applicant were armed with Iron rods and some of the co-accused were armed with Bat, Scythe and Stump. It is alleged that they assaulted Prashant by means of the weapons in their hands.

The statement of Madhvai Laxman Palkar, the fiancée of Prashant is recorded, who make a reference to the incident dated 30/04/2020, in respect of which NC came to be registered by her. She also narrated incident of 5/05/2020, and specifically stated that Ashish, Ajit and Pradyum were involved in the assault and Ashish and Pradyum were armed with Sword and they were threatening the bypassers. Other unknown persons being 8 to 10 in number are referred to as having assaulted Prashant by Bat,

stump, scythe, and iron rod.

5. Considering the role attributed to the present applicant and comparing it, with Ajit Gupta, who was also armed with an Iron rod, I think it as a fit case for extending parity to the present applicant. There are no antecedent against the present applicant and the prosecution do not express any apprehension that he will not make himself available for trial.

In the wake of the above following order is passed.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Atul Kumar Dilip Kumar Gupta shall be released on bail in connection with C.R.No.152/2020 registered with R.C.F. Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

The applicant shall be released on cash bail in lieu of sureties for a period of 4 weeks.

- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (d) The applicant shall mark his attendance on first

Thursday of the Trimester between 2:00 p.m to 5 p.m. till framing of charge, and make himself available as and when required by the Investigating Officer.

(SMT. BHARATI DANGRE, J.)