

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

CRIMINAL BAIL APPLICATION NO. 4490 OF 2021

Sagar Kiran Shinde

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Monish Bhatia for Applicant.

Mr.M.G. Patil, APP for State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 22 MARCH 2022

P.C. :

This is an Application under Section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.195/2021 pending before the Sessions Court, Kalyan for offences punishable under Sections 307, 120B read with 34 of IPC and under Sections 3, 25(1b)(a), 27(2) of the Arms Act and under Sections 37(1), 135 of Bombay Police Act.

2. The aforesaid crime was registered pursuant to the FIR lodged by the injured Sandip Gaikwad. It is the case of the prosecution that on 21 October 2020 near about 23 hours, while the complainant and his friend Jahangir More were walking at Shriram Chowk, Ulhasnagar, two persons alighted from a vehicle. One of the persons gave a blow of an iron rod on his head and the other person fired pistol below his knee. The assailants fled away on seeing a police vehicle. The complainant was admitted in hospital. In the supplementary statement recorded on 30 November 2020, the injured claimed that he was unable to give details of the incident due to

his disturbed state of mind. In the supplementary statement, he implicated three persons and claimed that one person had given a blow of Koyta (sickle) on his head, the other person assaulted him with rod on his back and the third person fired a pistol at his leg. He also claimed that he had heard one of the assailants saying that Micheal Seth had instructed them to cause his death.

3. In the statement recorded after T.I. parade, he identified accused Hiten as the person, who fired pistol at him and the Applicant as the person who assaulted him with a sickle on his head.

4. Thus, in the statement dated 30 November 2020, which was recorded more than a month after the incident, the complainant had for the first time identified the Applicant as one of the assailants, involved in inflicting a blow of sickle on his head. The Medical certificate indicates that there was gunshot on his right leg, fresh gunshot exit wound and CLW on right frontal region. The Medical certificate does not indicate whether the CLW was grievous or simple in nature. Moreover, *prima facie*, there is discrepancy in the statement of the victim as regards the number of assailants involved in the incident as well as weapons used in the incident. It is also to be noted that the chargesheet is already filed and the presence of the Applicant is no longer required in custody pending trial, which, considering the large pendency, is not likely to conclude in near future.

5. Considering the above facts and circumstances, in my considered view, the applicant is entitled to be released on bail. Hence, the following order :

(a) The Applicant who is arrested in C.R.No.I-266/2020 registered with Vitthalwadi Police Station, Ulhasnagar, is ordered to be released on cash bail in the sum of Rs.40,000/- (Rupees Forty Thousand) for a period of two weeks.

(b) The Applicant shall within the said two weeks, furnish P.R. Bond in the sum of Rs.40,000/- (Rupees Forty Thousand) with one or two sureties in the like amount.

(c) The Applicant shall not interfere with the victim or other witnesses or tamper with evidence in any manner.

(d) The Applicant shall keep the trial court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(e) The Applicant shall co-operate with the conduct of the trial and attend the trial court on all dates, unless exempted.

6. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)