

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1165 OF 2023
WITH APPLN/2832/2023 IN BA/1165/2023

VIRUSING GOKE @ VIRSING RISPALSING TAK
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Irfan D Maniyar, Mr. A. D. Girwalkar
APP for Respondent : Mr. S. P. Deshmukh
Advocate for victim : Ms. Ashwini A. Lomte

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CORAM : S. G. MEHARE, J.

DATE : 08-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State and the learned counsel for the victim.
2. The applicant seeks bail in C.R.No.338 of 2021 registered with Ambajogai City Police Station, Taluka Ambajogai, District Beed, for the offences punishable under Sections 302, 324, 323, 427, 143, 147, 148, 149 of the Indian Penal Code and Sections 4/25 of the Arms Act.
3. The persons from both sides were injured. However, no crime was registered against the complainant and the other witnesses from the present crime.
4. The learned counsel for the applicant would submit that the false allegations have been levelled against the applicant that he

caught-hold the deceased and instigated the other co-accused to stab him. The person injured did not state so, but he barely stated that the applicant assaulted him with a stick on his head but he avoided. Therefore, he sustained injury to his right little finger. The weapons allegedly used in the crime have been recovered. Considering the role attributed to the applicant, he may be granted bail.

5. The learned A.P.P. and the learned counsel for the victim have vehemently argued that the applicant was absconding for about one year. There were antecedents to his discredit. The applicant has played an active role in committing the crime. He caught-hold the deceased and instigated the co-accused to stab him. The offence is serious. Considering the gravity of the offence, the applicant shall not be granted bail.

6. Perused the papers.

7. The statement of the injured is very specific about the role attributed to the applicant. The applicant attempted to assault the injured with stick on his head, but he avoided it and suffered injury to his right little finger. There are antecedents against him for the offences punishable under Sections 395 and 397 of the Indian Penal Code. The law is settled that the antecedents may not be a ground to refuse the bail. The Court has to examine the role attributed to the applicant/accused in the crime for which he/she seeks the bail.

8. The incident happened for the reason that the applicant and accused in the present crime given threat to the injured Dilip Dhotre. Both were alleging against each other for stealing the pigs. Considering the role attributed to the applicant, the length of his detention in jail and filing of the chargesheet, the Court is of the view that no purpose would be served keeping the applicant behind bars. The applicant deserves bail on certain conditions. Hence, the order:-

- i) The application is allowed.
- ii) Applicant Virusing Goke @ Virsing Rispalsing Tak be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.338 of 2021 registered with Ambajogai City Police Station, Taluka Ambajogai, District Beed, for the offences punishable under Sections 302, 324, 323, 427, 143, 147, 148, 149 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall stay away from village Ambajogai for six months from the date of his release.
 - (c) He shall attend the trial on each and every effective date.
- iii) Criminal Application No.2832 of 2023 stands allowed.

(S. G. MEHARE)
JUDGE