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BA 2192.23 sr. 944.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2192 OF 2023

KISHOR SHIVNATH KURHADE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Mr. Balraj Prakash Pande

APP for Respondents: Mr. A.S. Shinde.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 14th DECEMBER, 2023

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 922 of 2023 dated 4.11.2023 registered with MIDC Waluj Police Station, District Aurangabad for the offences punishable under Sections 307 r/w. 34 of IPC.

2. The investigation has been set in motion on the basis of information given by Abhimanyu Dadasaheb Patil who alleges that on 3.11.2023 while he was attending a phone call, a motorcycle was passing by the road. The rider of the motorcycle was continuously blowing horn which disturbed the informant in his conversation. The informant intercepted the motorcycle rider and desisted from blowing the horn. At that time, the motorcycle rider abused the informant and gave him threats. While the informant was pacifying him, the accused took out sharp weapon from his motorcycle and assaulted on the head of the informant, causing him bleeding injuries. The motorcycle rider ran away from the spot. Immediately, informant

was shifted to CIGMA Hospital. Accordingly, it is alleged that the accused persons committed offence under Section 307 r/w. 34 of IPC.

3. The applicant has been arrested in pursuance of aforesaid crime on 5.11.2023. Since then, he is behind bars. The prayer of the applicant for grant of bail has been rejected by order of the Sessions Judge, vide order dated 28.11.2023. Hence, this application.

3. Mr. B.P. Pande, learned advocate for the applicant would submit that the applicant has been falsely implicated in aforesaid crime. He would submit that the allegations in the FIR are restricted against accused No.1 regarding head injury suffered by informant. The applicant was neither holding any weapon, nor raised any assault. He would therefore submit that no offence can be made out against the applicant. As such, the applicant deserves to be released on bail.

4. Learned APP strongly opposes the prayer for grant of bail. He would invite attention of this court to the Medical Certificate depicting the *CLW over parito occipital region and fracture of left parital region*. As such, injuries are grievous in nature. He would therefore, submit that the applicant has facilitated in commission of the offence and his role cannot be segregated with the main accused.

5. Having considered the submissions advanced, apparently, allegations of assault on the first informant are specifically made against accused Arun Masule. It is not the case of the prosecution that the applicant was holding any weapon or he raised any assault against the first informant. From the contents of the FIR, it is evident that the incident took place at the spur of moment. The first informant and accused persons were not having acquaintance. Further, the applicant is behind bars for more than one month. The investigation in the matter substantially progressed. Learned APP confirms that there are no criminal antecedents against the applicant to his

discredit. Hence, a case is made out for grant of bail.

: O R D E R :

- (I) The application is allowed.
- (ii) Applicant –Kishor S/o. Shivnath Kurhade, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, Crime No. 922 of 2023 dated 4.11.2023 registered with MIDC Waluj Police Station, District Aurangabad for the offences punishable under Sections 307 r/w. 34 of IPC, on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend the concerned police station once in a week i.e. on every Monday, between 10.00 a.m. and 2.00 p.m. till filing of charge sheet.
- (iii) The application stands disposed of.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-