

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

BAIL APPLICATION NO. 2242 OF 2023

DEEPAK DATTATRAYA KORE

VS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Sachin J. Salgare

APP for Respondent/State : Mr. A.S. Shinde

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 21.12.2023

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 167 of 2021 registered with Lohara police station, District Osmanabad for the offences punishable under sections 307, 324, 143, 147, 148, 149, 506 of the Indian Penal Code and under Section 3/25 of the Arms Act.

2. Investigation was set in motion on the basis of the information Baswaraj Mailari Karbhari who alleges that on 08.08.2021 he had been to Vilaspur Pandhari Dhanuri corner. He noticed that 8 to 10 persons were beating Nitin Mitkari. When he along with few other villagers were attempting to pacify, the accused persons continued assault of hunter, belt and fist and kick blows on Nitin. The one of the accused pointed a pistol towards the informant and threatened him. Then fired bullet which missed target. The mobile handset, wrist watch and gun held accused was escaped from his hand and laying on the ground. It is alleged that even other three accused persons were armed with pistol. One Dnyaneshwar Mamale was amongst the assailants and he reported the name of companions, who were holding pistols. The name of other persons are revealed to be Raju Dilip Mulaje, Nagnesh Chandkapure, Gangaram Vasudeo, Lahu Jamadar, Dipik

Kore, Vyankat Shirse and Avinash Jamadar. The informant states that he can identify those persons if brought before him.

3. On the basis of the aforesaid report Crime No. 167/2021 came to be registered with police station Lohara. During the course of investigation only accused nos. 1 and 2 were apprehended therefore charge-sheet came to be filed against other accused persons as per Section 299 of the Code of Criminal Procedure. The applicant came to be arrested on 18.07.2023 when he appeared before the Court in response to summons served upon him.

4. Mr. Salgare, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. No specific attributions are made against him. Neither he was present at the spot of the incident nor was he aware about registration of the crime. His name is implicated on the basis of the information given by co-accused. No identification parade is carried. He would submit that since 18.07.2023 the applicant is behind the bar.

5. The learned A.P.P. opposes the prayer for grant of bail. He points out that the applicant is named in the F.I.R. The offence is serious. Three persons were found holding unauthorized fire arms with live cartridges. The applicant was one of member of an unlawful assembly. He was absconding for the period of more than 11 months from registration of crime.

6. Having considered the submissions advanced, it is apparent that inception of the incident is a trifle quarrel. The applicant is named as accused on the basis of the statement given by co-accused. No specific role is attributed against the applicant. The incriminating article i.e. fire arm is already recovered. The co-accused persons are enlarged on bail. Accused no. 8 Deepak Jamadar, Shahuraj Jamadar and Rawan Jamadar are enlarged on bail by order of this Court dated 14.09.2022 in A.B.A. No. 1141/2022. The injury certificates available in charge-sheet show that the informant has not suffered any visible injuries. Another injured suffered a simple injury.

Although, use of the unauthorized fire arm during scuffle is a serious offence, the material in charge-sheet do not pinpoint any such attribution on the part of the applicant. Although, the applicant was shown as absconding in the charge-sheet it appears that on receipt of summons, he appeared before the Court. No criminal antecedents are reported to discredit the applicant. He is behind bar for more than five months. Looking to the nature of the allegations and the material in the charge-sheet, his further detention is not warranted. Hence case is made out to grant bail.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant Deepak Dattatraya Kore be released on bail in connection with Crime No. 167 of 2021 registered with Lohara police station, District Osmanabad for the offences punishable under sections 307, 324, 143, 147, 148, 149, 506 of the Indian Penal Code and under Section 3/25 of the Arms Act, on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
 - c) The applicant shall not indulge in any criminal activity.

(S. G. CHAPALGAONKAR, J.)

mkd/-