

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

BAIL APPLICATION NO. 214 OF 2023

Kaustub Manoj Ture	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Sanjeev P. Kadam a/w Mr. Dilip Shinde a/w Mr. Prathmesh Naik -
Advocate for the Applicant

Mr. H. J. Dedhia - APP for the Respondent-State

API Yogeshkumar Shirsat – Kalwa Police Station

CORAM : S. M. MODAK, J.

DATE : 12th APRIL, 2023

P. C. :-

1. Heard learned Advocate Shri Sanjeev Kadam for the Applicant/charge-sheeted accused no. 2 and learned APP Shri Dedhia for the Respondent-State. Officer is present.

2. On instigation of the present Applicant, accused No. 1- Nikhil Koli assaulted one Vaibhav Mengade with knife on his various parts of the body. He received grievous injuries. Initially, he was admitted to the Pramila Hospital and then to Jupiter Hospital, Thane by friends and maternal nephew of the first informant, Shivaji Aadak.

3. In fact present accused is not having any previous quarrel with injured Vaibhav. He was having quarrel with one Viraj Aadak who is son of the first informant. The said Viraj telephoned his father-first informant that he and injured Vaibhav were beaten by the present Applicant by fists and blows. On getting this information, the first informant on 13/09/2022 went to see really what has happened and he again received telephone call from his son. The incident took place near Priyanka Hotel, Vitawa, Kalwa, District Thane.

4. When the first informant went there he saw the present Applicant and accused no. 1-Nikhil abusing his son and injured Vaibhav. There were persons who were trying to separate them. At that juncture, the present Applicant handed over knife to accused no. 1-Nikhil and instigated Nikhil to assault Vaibhav as well as the son of the first informant.

5. In fact the previous quarrel is with Viraj, but it is not Viraj who received injuries but it is Vaibhav who received the injuries. No doubt he was assaulted on neck, chest and abdomen. I have seen those certificates. All injuries are grievous. It is true that in those certificates, history is given as assault by unknown person. As such it has no importance because we have to see oral statements.

6. Charge-sheet is filed against in all four persons. Apart from the Nikhil and present Applicant Kaustub Manoj Ture, Manoj Jagannath Ture and Mayuresh Manoj Ture being father and brother of the present Applicant are also charge-sheeted. Both of them granted anticipatory bail by this Court as per Order passed in ABA No. 3411 of 2022 dated 16/12/2022. One of the condition is to stay out of the jurisdiction of Thane District till conclusion of the trial.

7. Even though it is true that the present Applicant has not assaulted, the papers indicates that he has instigated Nikhil. No doubt there are allegations and it is supported by the materials, however I am inclined to grant bail considering his age and the period of detention already undergone and particularly when one does not know when the trial is going to start.

8. There is a submission made that he may be allowed to attend the college. It is opposed by learned APP for the reason that the Applicant and the witness should not come across, I agree with him. Instead of education of the Applicant, the safety of the witnesses is more important. The Court should also try to endeavor that the incident should not be repeated. Hence following order is passed :-

ORDER

- (i) Bail Application No. 214 of 2023 is allowed.
- (ii) The Applicant be released on bail on furnishing Personal Bond and Surety bond in sum of Rs. 25000/- in connection with C.R. No. 448 of 2022 registered with Kalwa Police Station for the offence punishable under Sections 307, 323, 341, 504, 506 of the Indian Penal Code and under Section 37(1) and 135 of Maharashtra Police Act.
- (iii) Applicant shall not threaten the prosecution witnesses.
- (iv) Applicant to stay out of Thane District till completion of the trial and enter Thane district only for the purpose of attending the Court.
- (v) It is clarified that this Court has not allowed the Applicant to enter the Thane District for attending the college.
- (vi) On request, it is clarified that the Applicant is permitted to attend the college only for the purpose of appearing for the examination. Let the Applicant to furnish the examination details to the investigation officer and Investigating officer to verify it and then only this relaxation will be effective.

[S. M. MODAK, J.]