

AGK

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

BAIL APPLICATION NO.628 OF 2023

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Sushant Shantaram Nathe

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Aniket Vagal with Mr. Kunal Pednekar for the
applicant.

Ms. Veera Shinde, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 20, 2023

PC.:

1. This is an application seeking bail under Section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.134 of 2022 registered with Adgaon Police Station, Nashik for offences punishable under Sections 307, 323, 504, 143, 147, 148, 149, 427 of the Indian Penal Code, 1860 and under Section 135 of the Maharashtra Police Act.

2. According to prosecution, on 30 May 2022 the informant after completing his agricultural work was on his way back to home in his car along with his friend Akash Gangurde. They stopped to have egg-roll from a shop opposite Jatra Hospital. Due to delay in serving the order, quarrel broke out between the informant and accused Nos.4 and 7 and his friends. Accused No.4,

therefore, made a phone call to his friends. Around 8.45 p.m. the applicant along with six to seven unknown persons came at the spot of incident on their motorcycle. There was argument between the informant and the applicant and others which resulted in assault. According to prosecution, the applicant along with his companions who were armed with iron rods and wooden sticks assaulted the informant on his head and ear with an intention to take his life. The applicant and others assaulted the informant with stone. They took away gold chain and cash of Rs.20,000/-. The informant, therefore, lodged a report.

3. The applicant was arrested on 2 June 2022. Learned Sessions Judge by order dated 23 August 2022 rejected the application filed by the applicant under Section 439 of the Criminal Procedure Code, 1973 on the possibility of applicant threatening the witness as they are residents of same vicinity.

4. Learned advocate for the applicant invited my attention to the order passed by co-ordinate Bench of this Court in Criminal Bail Application No.160 of 2023 releasing Akash Gangurde, accused No.5 on bail. According to him, the role attributed to the said accused is similar and he had criminal antecedents.

5. Learned APP opposed the grant of bail contending that considering the nature of assault and criminal antecedents, bail should not be granted. There is possibility of influencing witnesses.

6. On perusal of the charge-sheet, it appears that though the applicant is named in the report and statement of witnesses, joint role is assigned to the applicant along with others. The applicant is

in jail for more than an year. Charges are yet to be framed. It is unlikely that the trial will complete in near future. Moreover, co-accused No.5 has been released on bail by this Court.

7. Learned advocate for the applicant, on instructions, states that the applicant will not enter District Nashik. The statement is accepted.

8. In view of the said statement, the apprehension expressed in the Sessions Court order and learned APP is taken care of.

9. Considering overall circumstances, the applicant has made out a case for grant of bail. Hence, following order:

a) The applicant be released on bail in connection with C.R. No.134 of 2022 registered with Adgaon Police Station, Nashik for offences punishable under Sections 307, 323, 504, 143, 147, 148, 149, 427 of the Indian Penal Code, 1860 and under Section 135 of the Maharashtra Police Act on furnishing PR. Bond in the amount of Rs.15,000/- with one or two sureties in the like amount;

b) The applicant shall mark his presence before the concerned police station on first Saturday of each month till conclusion of the trial;

c) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;

d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted

with the facts of the case so as to dissuade him from disclosing such facts to the court;

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

f) During the pendency of trial, the applicant shall not enter Nashik District, save and except to attend the trial.

10. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 3 August 2023 to substitute paragraph 9(a).