

AGK

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

BAIL APPLICATION NO.1342 OF 2023

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Amol Sampat Wakhare

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Ajinkya M. Udane with Mr. Vinayak Pandit for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 24, 2023

RC.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No.8 of 2020 registered at Koregaon Police Station, Pune for offences punishable under Sections 143, 147, 148, 149, 302, 323, 504 of the Indian Penal Code, 1860.

2. According to prosecution, informant's mother lodged a report alleging that on 9 January 2020 when she returned home after completion of work, she did not find her son Nilesh Shendge. Around 12.00 to 12.15 a.m. her neighbour informed her that Nilesh was lying at square in injured condition. Vishal Dodke, eye-witness told her that around 11.30 p.m., while they were talking with the accused persons they assaulted the deceased with

iron rod and tile.

3. First information report was lodged on 10 January 2020. On 17 January 2020 supplementary statement of eye-witness was recorded. Eye-witness in his statement stated that the applicant assaulted the deceased by sharp edged weapon; however, due to his fear he did not mention his name in the statement recorded on 10 January 2020.

4. On perusal of the charge-sheet, it appears that the eye-witness Vishal Dodke narrated the incident by attributing active role to the accused mentioned in the first information report. Seven days after recording his statement, he stated that the applicant assaulted the deceased by sharp edged weapon. Explanation afforded for delay in alleging role against the applicant is of fear of the applicant.

5. On prima facie perusal of the postmortem report, it appears that there are no corresponding incised wound in column 17 of the postmortem report. Considering the nature of assault described in the first information report, role attributed to the applicant after seven days without corresponding injuries in the postmortem report, the applicant has made out a prima facie case.

6. In so far as criminal antecedents of the applicant are concerned, none of the offences are bodily offence.

7. Ultimately, the statement of eye-witness needs to be decided during trial. It shall be for the prosecution to prove its case during trial. However, at this stage, the applicant has made out prima facie case.

8. Moreover, the applicant was arrested on 24 January 2020. Charges are yet to be framed. It is unlikely that the trial will be over in near future.

9. On overall consideration of the aforesaid factors, the applicant has made out a case for release on bail. Hence, following order:

- a) The bail application is allowed;
- b) The applicant shall be released on bail in connection with C.R. No.8 of 2020 registered at Koregaon Police Station, Pune for offences punishable under Sections 143, 147, 148, 149, 302, 323, 504 of the Indian Penal Code, 1860 on furnishing P.R. Bond in the amount of Rs.25,000/- along with one or two sureties in the like amount;
- c) The applicant shall mark his presence before the concerned police station on first Saturday of every month between 11.00 a.m. to 2.00 p.m.;
- d) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;
- e) 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;
- f) 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;

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

(AMIT BORKAR, J.)