

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2864 OF 2022

Nilesh Laxman Pund

.... Applicant

Versus

The Senior Police Inspector & Anr.

.... Respondents

Mr. Mateen Shaikh a/w Suresh Jadhav and Ms. Muskan Shaikh, Advocate for the Applicant.

Ms. P. N. Dabholkar, APP for Respondent No.2-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th OCTOBER, 2023.

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P.C. :

1. By this Application, Applicant is seeking bail in C. R. No. 1794 of 2020 registered with Yervada Police Station, Pune for the offences punishable under Sections 302, 201, 143, 144, 147, 148, 149, 188, 269, 323 of Indian Penal Code, 1860 (for short "IPC") and Section 323 of the Epidemic Diseases Act, 1897 and under Section 3 of Maharashtra Covid-19 Rules, 2020 and under Section 11 of Disaster Management Act, 2005 and under Sections 4, 25 of the Arms Act, 1959 and under Section 37(1) of Maharashtra Police Act, 1951 and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 (for short "MCOC Act").

2. It is prosecution's case that one month prior to the incident i.e. on

27th May, 2005, there was quarrel between Akash Kanchile and witness Kunal Chandile. In the said quarrel, accused no.13 i.e. Akash had assaulted Kunal, the said matter was not reported to the police. It is alleged that on that day deceased Nitin Kasbe was released from jail on Covid parole. The first informant his friends and Nitin had gone to Shadal Baba Dargah. When they were walking on road, accused no.13 – Akash Kanchile and co-accused attacked on them with weapons. First informant and other friends ran away to save their lives. When first informant came to incident spot he saw Nitin was lying on the ground in pool of blood. He was shifted to the hospital, but doctor declared him dead. On the complaint of first informant offence was registered against the accused no.13 and co-accused. In investigation police arrested the present applicant.

3. It is contention of learned counsel for the applicant that no incriminating material produced on record against the applicant. Applicant has been arrested only on the ground that he is resident of Yervada area, where accused resides. Applicant is behind bar for more than three years. Applicant has no criminal antecedents. Hence, requested to allow the application.

4. It is contention of learned APP that Applicant was a part of group who assaulted the deceased. There is *prima facie* case against the Applicant. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge-sheet.
6. Admittedly, name of Applicant was not mentioned in the FIR. No incriminating material produced on record to show the involvement of the Applicant in the said crime. No witnesses have stated about the role of applicant in the said crime. There is nothing on record to connect the applicant with the said crime. Applicant is behind bar for more than three years. Investigation is completed and charge-sheet has been filed. Applicant has no criminal antecedents.
7. In view of above, I pass following order.

ORDER

(i) Applicant be enlarged on bail in C. R. No. 1794 of 2020 registered Yervada Police Station, Pune, on executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after

being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witness or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this Order.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)