



VRJ

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

BAIL APPLICATION NO.3036 OF 2022

Sumit Baban Bhokse

... Applicant

V/s.

The State of Maharashtra

... Respondent

Ms. Shubhangi Parulekar for the applicant.

Ms. Pallavi Dabholkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.**DATED : AUGUST 8, 2023****P.C.:**

1. This is an application under section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.960 of 2021 registered with Chakan Police Station, Pune for offences punishable under sections 395, 397, 387, 341 of the Indian Penal Code, 1860 and under sections 3(25), 4(25) of the Arms Act, 1959.

2. The prosecution case in short is as under:

The complainant is having Pan Shop at Chhatrapati Shivaji Market Chowk, Bhamboli, Taluka Khed, District Pune. Accused Santosh Manjare had demanded ransom of Rs.1000/- per month from the complainant for running said Pan Shop. The complainant had refused for the same. The accused Santosh Manjare was under

impression that the complainant Akshay Kolekar was instigating other shop owners for refusing to pay ransom. Accused Santosh Manjare was also under impression that the complainant was helping his enemy Anil Dhondiba Nikhade. Due to above reasons, accused Santosh Manjare was having grudge against the complainant Akshay Kisan Kolekar.

It is further alleged by prosecution that on 8th August 2021, at about 08:00 p.m., the complainant Akshay Kolekar and his friends Sachin Dnyandeo Botre and Jeevan Madhukar Pawar were present at Chhatrapati Shivaji Market Chowk, Bhamboli, Taluka Khed. At that time, accused Santosh Madhukar Manjare, Sainath Ramdas Raut, Akash Balasaheb Shelde, Ganesh Baban Dangle, Narayan Sunil Ghavte, Ganesh Hiranman Libhore, Vithal Navnath Pikale, Pradeep Arun Padwal and present accused Sumeet Baban Bhokse and others had been to said spot on motorcycles. They all formed an unlawful assembly. Accused Santosh Madhukar Manjare having grudge against the complainant, pointed pistol at complainant Akshay Kolekar saying that he would commit his murder. Thereupon, the complainant tried to run away from the said spot. All above accused chased the complainant and caught hold him. Accused Akash Shelke, Ganesh Dangle and Narayan Ghavte were possessing wooden logs. They assaulted complainant Akshay on his both legs, both hands and other parts of the body with intention to kill him, causing injuries. Complainant's friends Jeevan Pawar and Sachin Botre rushed to rescue him. Thereupon, the accused Santosh Manjare assaulted Sachin Botre on head and face by means of sickle with intention to kill him and caused

serious injuries. Accused Sainath Raut assaulted Jeevan Pawar by means of sickle with intention to kill him and caused serious injuries on head and hands. In said assault accused Santosh Manjare forcibly took out gold chain worth Rs.40,000/- from the neck of Jeevan Pawar. Accused Sainath Raut forcibly took out gold chain worth Rs.20,000/- from the neck of Sachin Botre. At the time of incident the accused Ganesh Hiranman Libhore was possessing wooden log. Accused Ganesh Dangle was possessing sickle. Accused Vitthal Pikale, Pradeep Padwal and present accused Sumeet Bhokse were also possessing sickles. Wooden logs possessed by accused Ganesh Libhore and sickle possessed by accused Ganesh Dangle were left on the spot of incident. After the incident all accused ran away in the direction of Pioneer Company, Bhamboli. The complainant, therefore, lodged report.

3. The applicant came to be arrested on 10th September 2021. The prosecution agency applied provisions of the Maharashtra Control of Organized Crime Act, 1999 (hereafter, "MCOCA" for short), and accordingly sanctioned to prosecute was also granted.

4. The applicant applied for bail which came to be rejected by order dated 28th September 2022.

5. Learned advocate for the applicant submitted that the applicant was not named in the first information report. The name of the applicant surfaced in supplementary statement. Role attributed to the applicant is of catching hold of the informant. The applicant is in jail from 10th September 2021. The applicant has no criminal antecedents.

6. Per contra, learned APP submitted that the applicant is a member of crime syndicate. Though, the applicant was not named in the first information report, supplementary statement recorded on the next day named the applicant. Statements of the witnesses were immediately recorded on the next day which attribute specific role to the applicant. Therefore, no case for bail is made out.

7. I have carefully considered the first information report and charge-sheet including statement of the witnesses. It is undisputed that the applicant has no criminal antecedents. The applicant was not named in the first information report. However, role of catching hold of victim was attributed to the applicant. The injury report indicates simple injuries caused to the informant. Considering role attributed to the applicant of catching hold of the informant and the injury certificate indicating simple injuries to the informant, at this stage, there is a scope to believe that the applicant has not committed any offence under MCOCA. Considering the fact that there are no criminal antecedents against the applicant, there is reason to believe that he is not likely to commit similar offence under MCOCA.

8. In that view of the matter, the applicant deserves to be released on bail. Hence, following order:

a) The applicant be released on bail in connection with C.R. No.960 of 2021 registered with Chakan Police Station, Pune for offences punishable under sections 395, 397, 387, 341 of the Indian Penal Code, 1860 and under sections

3(25), 4(25) of the Arms Act, 1959, on furnishing PR. Bond in the sum of Rs.25,000/- along with one or two sureties in the like amount;

b) The applicant shall attend each and every date before the Trial Court unless specifically exempted by the Court;

c) The applicant shall mark his presence before the investigating officer on first Saturday of each month between 11.00 a.m. to 02.00 p.m. till the completion of the trial;

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.

9. The bail application stands disposed of in above terms.

(AMIT BORKAR, J.)