

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

BAIL APPLICATION NO. 3169 OF 2022

Shabbir Ahmed Shagir Ahmad
Shaikh

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Imran Shaikh - Advocate for the Applicant
Mr. S. R. Agarkar - APP for the Respondent-State
Vilas Nana Kothe – PSI Manor Police Station, Palghar

CORAM : S. M. MODAK, J.

DATE : 07th JULY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP. Officer is present.

2. The present Applicant is one amongst the four persons who ran away in wagon-R car and Police chased them and the driver take that wagon-R car at Village Bhopoli Tal. Paghar. While running away, they gave a dash to one hut belonging to one Prakash Jadhav whose statement is there on page no. 125. One of the raiding party chased them and taken them into custody. After that the Police inspected the wagon-R car and they found two bullocks. Whereas there was one more pick up car. Both these vehicles were tried to

intercepted by the Police at Tame Naka, Taluka Palghar within the limit of Manor Police Station. On 02/01/2022, the raiding party tried to give signal to them, however pick up jeep driver gave dash to barricades and also tried to run over those Police staff. The Police chased them and thus jeep was found in an abandoned condition in village Tame. After inspection of the jeep, the Police found pieces of the meat. The Wagon-R also gave dash to the car in which PSI Kanse was standing on the road. On this background, Police Constable lodged the complaint with Manor Police Station on 02/01/2022.

3. Number of contentions were raised. It includes the Section 307 and Section 395 of the Indian Penal Code could not be invoked. Furthermore, there was only simple injuries to Prakash Jadhav. Further contention is raised how four persons can sit in wagon-R car alongwith two bullocks. It is highly improbable. On humanitarian ground, the contention is raised that the Applicant is having small children.

4. Whereas learned APP opposed the bail on merits so also on the ground of criminal antecedents. Applicant claims that he was discharged in those offences. Earlier to this interception, one more incident took place. It is in the village of Nanivali, Taluka Palghar.

Five to Six persons entered the house of one Vijay Kisan Nikam. Two of them beaten him with fists and blows and threatened them by using the sword. They forcibly took away two bullocks. The incident took place at about 04.00 a.m. of the 02/01/2022. Contention is raised that this Vijay has kept quiet till 03/01/2022. It is important to note that two bullocks were found in the jeep.

5. Furthermore, the Wagon-R car gave a dash to the hut of one Prakash. His statement is on page no. 125. He got simple injuries. Case paper is there on page no. 129. Certificate is there on page no. 130. It says about simple hurt.

6. There is reference of five to six persons made by the witness Vijay Nikam and if bullocks are stolen and five to six persons are there, then prima-facie I feels that it is sufficient for invocation of Section 395 and when sword is used that is why Section 397 is invoked. If vehicle driver while running away, if he tried to run over the Police, I prima-facie feel that Section 307 is justified. Applicant was found while running away and he is one of the occupant of the wagon-R car.

7. Considering the manner in which this incident took place, I do not feel that he deserves to be released on bail. The

incident consist of various transactions and there are materials to show the link in between these incidents. So no case for bail is made out.

8. Furthermore, sword is also seized at his instance. The contention is that it was seized after five days, it cannot be accepted. It show the involvement of this Applicant. So I am rejecting the bail application of the present Applicant. Even though it may be true that many of the witnesses are Police Officers, it does not mean that bail can be granted merely on the contention that there is highly any possibility of threatening them. Court has to see the materials and manner in which the incident took place.

9. Bail application is rejected.

10. At the most, if trial will not commence within six months, the Applicant is at liberty to ask for bail again.

[S. M. MODAK, J.]