

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.415 OF 2023

Ravi S/o Vasanta Waghmare and another Vs. State of Maharashtra

WITH

CRIMINAL APPLICATION (BA) NO.418 OF 2023

Aditya S/o Vijay Ghate Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.

Court's or Judge's orders.

Shri Anil Mardikar, Sr. Advocate a/b Shri V.R. Deshpande
 Advocate for applicants.

Shri M.J. Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : JULY 19, 2023.

Corrected as per
 Hon'ble Court's
 order dated
 25.7.2023.

Personal Assistant

Both these applications are preferred for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.350/2022 registered with Police Station, Pusad Rural, Pusad, District Yavatmal for the offences punishable under Sections 307, 144, 147, 149 read with Section 34 of the Indian Penal Code and under Sections 3, 25 and 4 of the Arms Act. Ravi Vasanta Waghmare and Sandip Rajan Singh have filed Criminal Application (BA) No.415/2023. Whereas, Aditya Vijay Ghate has filed Criminal Application (BA) No.418/2023. All the applicants are arrested on 30.06.2022.

2. The crime is registered on the basis of report lodged by Madhavrao Shamrao Haral on an allegation that, on 29.06.2022, his son namely; Sachin Haral had been at

Gunvantrao Deshmukh High School, Pusad to drop his wife who appeared for the examination. Within half an hour, the informant received a phone call from his daughter-in-law Deepa, who informed that when they were proceeding to the said institution at the relevant time three unknown persons came in front of them and one of them fired a bullet towards Sachin but the said bullet has not hit him and Sachin ran away from the spot. At the relevant time, two unknown persons followed him by chasing him and gave him a blow of knife to his back. Due to the said blow, Sachin sustained a grievous injury and was immediately shifted to the hospital at Nanded. During the investigation, the statement of the injured is recorded. From the statement of injured, the name of the present applicants are revealed and the role is attributed to applicant no.1 - Ravi Vasanta Waghmare that he gave a blow of knife on the back of the injured. Whereas, the applicant - Sandip Rajan Singh chased him by holding a knife in his hand.

3. As per the contention of the applicants, there was a previous enmity between the injured and one Vishal Ghate. The present applicants have no animosity against the injured they are falsely implicated in the alleged offence. Though the statement of the wife of the injured is recorded on 11.07.2022 and she has disclosed the role of the present applicants. However, the informant has received the information about the incident from her, and to the informant she has not disclosed the names of the assailants.

Thus, the names of the present applicants are implicated after thought. Now the investigation is completed and charge-sheet is filed and further custody of the applicants is not required and hence they be released on bail.

4. The said application is strongly opposed by the State on the ground that though the bullet was not hit, which was fired by the applicant – Aditya, who had filed the application BA No.418/2023 but it reveals that they came there to eliminate the injured. Thus, there is a *prima facie* material against the present applicants-Aditya Vijay Ghate. As far as the role of the applicant- Ravi and Sandip is concerned, Ravi has given a blow of knife to the back of the injured. The injury sustained by the injured is to the effect that the lung of the injured was affected due to the said injury. The injury assigned to the applicant- Ravi shows that he has given the blow with the intention to cause the death of the injured. Considering the role attributed to the applicant – Ravi, the bail application of said Ravi deserves to be rejected. As far as the applicant Sandip is concerned, all the applicants came to the spot of the incident with their common intention to eliminate the injured, and therefore both applications deserve to be rejected.

5. Heard Shri Anil Mardikar, learned Senior Counsel for the applicants. He submitted that the informant is resident of Shivaji Ward. Whereas, Aditya Ghate is also resident of Shivaji Ward. The false implication can be

ascertained from this fact that the informant has not mentioned the name of Aditya Ghate though Aditya Ghate is also resident of the same village and the informant knows him. He further submitted that as far as the role of Sandip is concerned, no injury is attributed to him. The bullet was fired by the Aditya but it has not hit the injured. He further submitted that the recovery, which is shown at the instance of Ravi regarding the Desi Katta is from the house of the Ravi. Infact, the spot panchanama shows that said pistol (Desi Katta) is found at the spot itself, which can be revealed from the spot panchanama. He invited my attention towards the recitals of the spot panchanama, which shows that one pistol (*Desi Katta*) at the spot itself. The investigation papers further show that another pistol (*Desi Katta*) is recovered at the instance of applicant-Ravi, when it is not the case of the prosecution that the accused persons were holding more than one pistol (*Desi Katta*) in their hands when the injured was chased. The knife was also recovered at the instance of the accused persons. He submitted that now the investigation is completed. Charge-sheet is also filed and further custody of the applicant is not required. Hence, they be released on bail.

6. The learned APP vehemently submitted that as far as the role of Ravi is concerned, he has given the blow on the back of the injured, which was a massive blow and affected the lung of the injured. Thus, the injury was caused with the intention to eliminate the injured, however, the

injured has survived. As far as the role of applicant-Sandip is concerned, he arrived at the spot with the common intention to eliminate the injured. Therefore, there is a *prima facie* case against the present applicant. He further submitted that the applicant – Aditya Ghate has used a weapon like pistol (*Desi Katta*) and if he is released on bail then there is a likelihood of tampering with prosecution evidence. Hence, the applications deserve to be rejected.

7. Having heard both sides and perusal of the investigation papers, it reveals that there was previous enmity between the injured and one Vishal Ghate. Some criminal cases are also pending between them. It further reveals from the statement of the injured that the injured was insisted said Vishal Ghate for settlement of those criminal cases for which said Vishal Ghate has declined and threatened the injured that he will see what result will come out after one month. The statement of the wife of the injured is also recorded during the investigation, who is an eyewitness of the said incident. Her statement was recorded on 11.07.2023, wherein she disclosed the name of Aditya Ghate and his role is also disclosed that he has fired one bullet towards the injured, which did not hit. The statement of the injured is also recorded. From this, the involvement of all three applicants is revealed. As far as the role of the applicant – Ravi Waghmare is concerned, he has given a forceful blow on the back of the injured, which was a massive blow. Therefore, this Court has expressed that the

Court is not inclined to grant bail to said Ravi Waghmare. On this learned Senior Counsel submitted that he is withdrawing the application for applicant-Ravi Waghmare. Therefore, the application to the extent of Ravi Waghmare regarding prayer for bail is disposed of as withdrawn.

8. Considering the investigation papers, admittedly, initially, the FIR was lodged against unknown persons. From the statement of the injured, the names of the assailants are revealed. As far as the role of Sandip is concerned, the only allegation against him is that he chased the injured by holding a knife in his hand but no injury is attributed to him. Now the investigation is completed and his further custody is not required as all the articles are already recovered. As far as Aditya Ghate is concerned, though he has used the weapon like pistol (*Desi Katta*) the bullet fired by him has not hit the injured and the incriminating weapon is already recovered. There is no allegation that there was enmity between him and the injured. The enmity is between Vishal Ghate and the injured. As far as the accused – Ravi Waghmare is concerned, as has already been observed that he has given a blow of knife on the vital part of the body, which was a massive blow and which was sufficient to cause the death of the injured. However, the injured has survived. Considering the role of the applicant-Ravi Waghmare is concerned, his application is not under consideration, and therefore, it is withdrawn by the learned Senior Counsel. Considering the role of other co-accused, as already

observed that the investigation is completed and charge-sheet is filed. No purpose will be served by keeping the applicants behind bars. However, considering the role that they chased the injured and attempted to cause him injury, their applications deserve to be allowed by imposing stringent conditions. Accordingly, I proceed to pass the following order:

ORDER

- i. Criminal Application No.418/2023 is allowed and Criminal Application No.415/2023 is partly allowed.
- ii. The applicants – Sandip S/o Rajan Singh and Aditya S/o Vijay Ghate be released on bail in connection with Crime No.350/2022 registered with Police Station, Pusad Rural, Pusad, District Yavatmal for the offences punishable under Sections 307, 144, 147, 149 read with Section 34 of the Indian Penal Code and under Sections 3, 25 and 4 of the Arms Act, on executing PR bond in the sum of ₹25,000/- each with one solvent surety in the like amount.
- iii. The applicants shall attend Police Station, Pusad Rural, Pusad, District Yavatmal on every Sunday between 10.00 am to 02.00 pm till conclusion of the trial.
- iv. The applicants shall furnish their cellphone

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numbers and addresses with address proof. In addition, the applicant shall also furnish the names of his two relatives and their address with address proof.

v. The applicants shall not enter into vicinity of Shivaji Ward, till the conclusion of the trial, without prior permission from the Court.

vi. The applicants shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the alleged crime.

vii. Prayer of grant of bail by the applicant no.1-Ravi S/o Vasanta Waghmare is withdrawn. Hence, application to the extent of Ravi S/o Vasanta Waghmare is concerned, is disposed of as withdrawn.

With this, the application is disposed of.

JUDGE

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