



{1}

BA 842.24.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 842 OF 2024

TUSHAR ISHWAR SONAWANE
VERSUS
THE STATE OF MAHARASHTRA.

...

Mr. A.K. Bhosale, Advocate for applicant.
Mr. A.V. Lavte, APP for respondent No.1.
Mr. Jitendra Patil, Advocate for complainant.

CORAM : S.G. CHAPALGAONKAR, J.

DATE :- 16TH JULY, 2024.

ORDER :-

1. The applicant seeks bail in connection with Crime No. 849 of 2022 registered with M.I.D.C. Police Station, District Jalgaon for the offences punishable under Sections 307, 323, 143, 147, 148, 149 and 504 of IPC.

2. The investigation was set in motion on the basis of information given by Shri Kailas Vikram Chavan alleging that his son Sachin had some dispute with applicant/accused. On 4.12.2022, while Sachin and his cousin Nitin had been to Priyanka Kirana, the applicant/accused Tushar, alongwith other accused persons arrived on the spot and attacked Sachin. When Nitin tried to intervene the applicant inflicted injuries of knife on stomach and chest of Nitin. It is further alleged that accused Dadu Sapkale, caused serious injury to hand

of Nitin. In pursuance of the said complaint, crime No. 849 of 2022 came to be registered with Police Station, MIDC, Jalgaon for the offences as mentioned above.

3. The applicant is arrested on 6.12.2022. On completion of investigation, charge sheet is filed in the Sessions Court. The applicant had moved previous bail application No. 1172 of 2022 before the Sessions Court. However, same was rejected on 15.2.2023. The applicant had approached this Court vide Bail Application NO. 1368 of 2023. However, said application came to be disposed of with liberty to renew request for bail after six months. Hence, the present application.

4. Mr. A.K. Bhosale, learned advocate for the petitioner submits that the applicant is behind bars for almost 20 months. The victim of the offence, although received injuries, have been recovered. The injury suffered by Nitin that resulted into amputation of his hand is attributable to the blow of knife given by Dadu Sapkale. The applicant was hardly 18 years of age without criminal antecedents. The trial would take its own course.

5. Learned APP Mr. Lavte appearing for the State and Mr. Sandipkumar Shinde, appearing for the complainant, vehemently oppose the prayer. They would invite attention of this court to the contents of FIR as well as statement of eye witnesses, wherein, there is clear attribution against the applicant being author of serious injuries caused to Sachin as well as Nitin. They would further refer to the Memorandum of panchanama under Section 27 and consequential recovery of knife at the instance of the applicant. They would further invite attention of this

court to the injury certificate wherein corresponding injuries on the person of victims can be seen.

6. Having considered the submissions advanced, it is evident that FIR names the applicant being the author of injuries suffered by Nitin and Sachin. The contents of FIR are corroborated by the statements of eye witnesses. The role of the applicant in commission of the offence is writ large. The medical evidence on record shows that victims had suffered serious injuries. So far as injury suffered by Nitin on his left hand, it is attributable to accused Dadu Sapkale, whereas, applicant caused injury on waist of Sachin as well as stomach of Nitin. The serious injury which is responsible for amputation of Nitin's hand is attributable to co-accused.

7. Although, there is prima facie evidence to attribute guilt against the applicant, fact remains that till this date, trial has not commenced. No witness is examined till this date. The applicant is arrested on 6.12.2022. By this time, period of almost 20 months has lapsed. Trial may take its own course. No criminal antecedents are shown to discredit the applicant. He was hardly 18 years of age at the time of offence. In this background, further detention of the applicant would not be justified.

8. It is trite that in case of prolonged prosecution, the right of accused to speedy trial gets defeated. Such right enshrined under the Constitution of India can not be ignored even in serious offences. At this stage, it would be apposite to refer to the judgment of the Supreme Court in the matter of *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and*

other Criminal Appeal No. 2787 of 2024, decided on 3.7.2024 wherein, the Supreme Court has observed in para. No. 19 thus :-

“19. If the State or any prosecuting agency including court concerned has no wherewithal to provide or protect the fundamental right of an accused to have speedy trial as enshrined under Article 21 of the Constitution of India, then, the State or any other prosecuting agency should not oppose the plea for bail on the ground that crime committed is serious. Article 21 of the Constitution applies irrespective of nature of crime.”

The court has further observed that the object of bail is to secure attendance of the accused at trial and it is indisputable that bail is not to be withheld as a punishment.

9. Keeping in mind the aforesaid principles of law and the fact that trial is yet to commence although the applicant has suffered incarceration for 20 months, a case is made out for grant of bail. Hence, the following order :-

: O R D E R :

[i] The application is allowed.

[ii] The applicant – Tushar Ishwar Sonawane, be released on bail in connection with crime No. 849 of 2022, registered at MIDC Police Station, District Jalgaon for the offense punishable under Sections 307, 323, 143, 147, 148, 149, 504 of IPC on his furnishing PR. Bond in the sum of Rs.50,000/- (rupees fifty only) with one solvent surety in the like amount.

[iii] The applicant shall not tamper with the evidence,

[iv] The applicant shall attend each and every date before the

Sessions Court in Sessions Case No. 55 of 2023 and cooperate for early disposal.

[v] The applicant shall not enter Rameshwar Colony Area of Jalgaon town, except for attending the date fixed for trial in this case, till disposal of the Sessions Case.

[vii] The application is accordingly disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-