

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2381 OF 2023

Karan Suresh Jadhav ...Applicant

vs.

The State of Maharashtra ...Respondent

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PAREKAR

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Mr. Nitin Kamble a/w. Mr. Vaibhav Chandanshive, for the Applicant.
Mr. Tanveer Khan, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 21, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant who is arraigned in C.R. No. 385 of 2020 registered with Khadki police station for the offences punishable under sections 307 and 504 read with 34 of Indian Penal Code, 1860 and sections 37(1)(3) read with 135 and 4 read with 25 of Indian Arms Act, 1959 seeks to be enlarged on bail.
3. The first application preferred by the applicant, being Bail Application No. 3914 of 2021, was disposed of as withdrawn by an order dated 11th July, 2022. However, having regard to the nature of the occurrence and the age of the applicant, liberty was granted to revive the prayer for bail in the event the trial is not completed by 30th June, 2023. Availing the said liberty, the applicant has again moved this Court asserting that the trial has yet not commenced.
4. The indictment against the applicant and the child in conflict

with law, is that the applicant and the child in conflict with law and Sanket, the injured, the son of the first informant, were childhood friends. A year prior to the occurrence there was a quarrel between the applicant and the child in conflict with law, on the one part, and the injured, on the other part. Since then, the applicant and the child in conflict with law had a grudge against the injured.

5. On 6th December, 2020 the injured and his friend Akshay were on their way to home on motor-cycle. When they reached in front of Creamson Society, the applicant and the child in conflict with law asked them to halt the motor-cycle. The applicant and the child in conflict with law asked the injured to take them to Pimpri on his motor-cycle. On the refusal of the injured, the applicant allegedly gave a blow by means of Axe on the head of the injured from behind. The injured sustained a bleeding injury. As the injured started to run away, the child in conflict with law took out a Scythe and gave blow on the back of the injured. The applicant allegedly gave another blow by means of Axe which the injured fended off by his right hand. Somehow the injured managed to run away and took shelter in the house of Ajinkya Pandule and bolted the door from inside.

6. The first informant, upon being apprised, took the injured to Sasoon Hospital, where the injured was operated and discharged on

15th December, 2020.

7. The applicant came to be arrested on 8th December, 2020.

8. Mr. Kamble, the learned counsel for the applicant submitted that the incident had occurred in the spur of moment. There was no pre-meditation. The applicant is a young boy of 21 years. He has been in custody since three and half years and yet the trial has not commenced. Therefore, the applicant be enlarged on bail.

9. Mr. Khan, the learned APP resisted the prayer for bail. Inviting the attention of the Court to the statement of the injured as well as Akshay Satpute, the friend of the injured, who witnessed the occurrence, the injury certificate and the discovery made by the applicant leading to the recovery of the weapon of offence i.e. Scythe, Mr. Khan submitted that a very strong prima facie case is made out against the applicant. Therefore, the applicant deserves to be enlarged on bail.

10. Prima facie, it appears that there is ocular account which incriminates the applicant. The claim of the injured that the applicant and the child in conflict with law assaulted him by means of sharp weapon finds support in the statement of Akshay Satpute, the alleged eye witness. The medical evidence prima facie lends credence to the statement of the injured.

11. The discovery made by the applicant leading to recovery of

the Scythe is however required to be appreciated in the light of the fact that the injured and the witness have stated that the applicant assaulted the injured by means of Axe and the child in conflict with law gave blow by means of Scythe. It is different matter that the Axe is also shown to have been recovered pursuant to the discovery made by the child in conflict with law.

12. At this stage, the genesis of the occurrence deserves consideration. It appears that the applicant and the accused were friends and they had turned astray. The applicant was 21 years of age at the time of alleged occurrence. As the injured had sustained grievous hurt, offence under section 307 of the Penal Code may entail punishment of imprisonment for life. However, the fact that the applicant has been in custody since three years and three months can not be lost sight of. The learned APP, on instruction, submits that the trial has not commenced. In the circumstances, it is extremely unlikely that the trial can be concluded within a reasonable period. Thus, having regard to the age of the accused, the genesis of the occurrence and the situation in life of the parties, at the time of alleged occurrence, in my view, the applicant deserves the exercise of the discretion.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant Karan Suresh Jadhav be released on bail in C.R. No. 385 of 2020 registered with Khadki police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.
- 3] The applicant shall mark his presence at Khadki police station on the first Monday of every alternate month in between 11 am to 1 pm for a period of three years or till conclusion of the trial whichever is earlier.
- 4] Except for marking presence, the applicant shall stay away from the limits of Khadki police station for a period of three years or till the conclusion of trial whichever is earlier.
- 5] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- 6] The applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- 7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)