

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3775 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2024.04.25
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Martin Satrick Isaac

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Umesh Iyer, for the Applicant.

Mr. S. R. Aagarkar, APP for the State/Respondent.

PSI Prabhakar Kadle, Chitalsar Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 22nd APRIL, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in CR No.9 of 2023 registered with Chitalsar Police Station, Thane, for the offences punishable under Sections 120B, 307 and 394 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") and Section 25 read with Section 4 of the Arms Act, 1959, has preferred this application to enlarge him on bail.
3. The applicant and the first informant reside in Pratap Cooperative Housing Society. Satrick Issac, the father of the applicant, was the Secretary of the said society. In the wake of the allegations of misappropriation, the Managing

Committee came to be dissolved. Thus, Satrick Isaac, the applicant and his brother, had a grudge against the other members of the society and in connection with the said quarrels, reports were lodged with the police.

4. On 10th January, 2023 at 4.00 am. while the first informant was on his way to Lokpuram, Thane, for work, the applicant and an unknown person accosted the first informant. They attempted to forcibly take away the first informant. The latter tried to flee towards his home. The unknown associate of the applicant gave a sword to the applicant. Thereupon, the applicant unleashed blows by means of sword on the hands, head and back of the first informant. The applicant exhorted that he would not spare the first informant. Hearing the alarms raised by the first informant, his wife came to his rescue. Thereupon the applicant and his unknown associate, fled away alongwith the mobile phone handset, cash amount of Rs.7,500/- and Scooter of the first informant.

5. During the course of investigation, the applicant came to be arrested. The applicant made discovery leading to the recovery of the weapon of offence i.e. sword. It transpired

that, the unknown associate of the applicant was a child in conflict with law.

6. Mr. Iyer, the learned Counsel for the applicant, submitted that the applicant has been roped in on account of the enmity over the management of the affairs of the society. It was submitted that there is material discrepancy in the statements of the first informant and the alleged eye witnesses. Recovery of the weapon of offence cannot be fastened to the applicant as the weapon was recovered from a place open and accessible to all. The applicant is a 28 year old person. Trial will take considerable time. Therefore, the applicant be released on bail.

7. In opposition to this, the learned APP invited the attention of the Court to the injury certificate of the first informant which records that the first informant had sustained as many as 11 injuries on the hands, head and other parts of the body. It was submitted that the nature of the injuries indicates a clear intent on the part of the applicant to commit the murder of the first informant. Therefore, the applicant does not deserve to be enlarged on bail.

8. I find substance in the submission of the learned APP. The time of occurrence is indicative of the element of premeditation. The first informant, was attacked in the wee hours of 10th January, 2023. The applicant and the child in conflict with law had accosted the first informant, armed with a deadly weapon. As many as 11 CLW were found on the head and hands of the first informant. The number of injuries is also indicative of the intent to commit the murder of the first informant.

9. The version of the first informant *prima facie* finds ample support in the medical evidence. The statements of the wife of the first informant and two witnesses Anant Salve and Maya Salve, who had allegedly witnessed the occurrence and rushed to the house of the first informant lend further support to the claim of the first informant. To add to this, inimical relationship between the parties provided the motive for the crime.

10. In the aforesaid view of the matter, a strong *prima faice* case can be said to have been made against the applicant. The apprehension on the part of the prosecution of tampering with evidence and threatening the witnesses, appears to be

well founded. Therefore, this is not a fit case where discretion can be exercised to release the applicant on bail.

11. Hence, the following order:

: O R D E R :

- (i) Application stands rejected.
- (ii) 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.

[N. J. JAMADAR, J.]