

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2500 OF 2024

Gautam Sitaram Sonawane .. Applicant
Versus
The State Of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO. 3131 OF 2024

Akash Lahu Manjrekar .. Applicant
Versus
The State Of Maharashtra and Anr. .. Respondents

.....

- Mr. Raju Suryawanshi, for Applicant.
- Ms. Mahalaxmi Ganpathy, APP for the State.
- Mr. Y.M. Dhongade, API, Kolshewadi Police Station.

.....

CORAM : MILIND N. JADHAV, J.
DATE : JANUARY 02, 2025

P.C.:

1. Heard Mr. Suryawanshi, learned Advocate for Applicant and Ms. Ganpathy, learned APP for the State.

2. This is an Application filed by Applicant seeking enlargement on bail in connection with C.R. No. I-346 of 2024 registered with Kolsewadi Police Station, District Thane for the offence punishable under Section 307, 504, 341 of Indian Penal Code, 1860 (for short “IPC”) and under Section 37 (1) 135 of the Maharashtra Police Act, 1951.

3. The date of incident is 23.02.2024 at about 01.00 pm in the night. The first informant-complainant Mr. Akash Manjrekar filed the report stating that on the intervening night of 23.02.2024 and 24.02.2024 at about 01.00 pm after dropping his friend Mr. Avdhut was proceeding to his house when he was assaulted near Double Tower, Anantwadi, Kalyan (east) by the applicant. There was a scuffle and skirmish between the accused and the victim and it is stated in the FIR that the accused stabbed the victim with a knife on the left side above the chest. The victim was thereafter called his brother and friend Sandesh Gangurde who came to the spot of incident and took him to the nearby Bai Rukhminibai Hospital Kalyan for treatment. The medical certificate of the said hospital is appended at page No. 83 of the Application. It is issued by the Medical Officer on duty of the Bai Rukhminibai Hospital Kalyan of the Municipal Corporation in respect of treatment given to the victim for the stab injury which issued at 01.45 am, though the date apparently ought to be 24.02.2024. The age of injury is shown as fresh and injury is described as simple.

4. The prosecution has relied upon the certificate issued by Meera Hospital on the premise that after his preliminary treatment at Bai Rukhminibai Hospital Kalyan he was admitted to Meera Hospital. It is Applicant's case before me that though he was directed to go to Kalwa Municipal Hospital for further treatment, the victim did not go

there. Second medical certificate is dated 13.03.2024 issued after a hiatus of 20 days. That certificate incidentally shows that injury is grievous. It is a handwritten certificate issued by the doctor of Meera Hospital. There is no other evidence placed on record about the grievousness of the injury and victim having been admitted to the hospital during the interregnum. The recovery panchanama is dated 24.02.2024 which is appended at Page No. 45 of the Application.

5. Ms. Ganpathy, learned APP would draw my attention to the same and contents at page No. 47 and would submit that the weapon in question was a knife 10 inches long and therefore the gravity of the offence be considered by the Court before considering the present Bail Application. It is seen that the recovery panchanama is dated 24.02.2024 where the case of the prosecution is that the Applicant was apprehended near the spot of incident by the passersby who rushed to the aid of victim.

6. *Prima facie* previous enmity between the parties cannot be ruled out as can be seen from the record of the case. It is further seen that after the treatment received by the victim on the intervening night of 23.02.2024 all that is stated in the medical certificate is that treatment has been given and he has been advised chest x-ray and nothing more. Considering the fact that provisions under Section 307 of grievous hurt has been implied and considering the nature of the

injury being certified as simple injury in the first instance by the Bai Rukhminibai Hospital, Kalyan Municipal Corporation there is clear dichotomy in the case of the prosecution insofar as the how injury is occurred. That apart it seems that there is one eye witnesses to the incident. However, in his statement which is appended at page no. 63 the eye witness Shyam Jagtap states that there was a scuffle between two at about 12.30 in the night. In fact said eye witness states that the victim was not accosted and assaulted but he himself came on the incident spot and questioned the accused and thereafter thereafter there was a verbal altercation between the victim and accused was followed by scuffle. The eye witness further states that when the scuffle took place between two of them all others who were present at the incident spot ran away. He further states that he also left the incident spot leaving the victim and the accused to carry on with their scuffle. In view of my above observations, the incarceration of the Applicant is not warranted. *Prima facie* the medical evidence as also the statement of witness to the incident as placed before do satisfy me to allow the present Application.

7. Ms. Ganpathy, learned APP has also drawn my attention to the fact that the antecedents of the Applicant are not clean and he is involved in similar offences in the past. In that regard she would draw my attention to the circular at page No. 73 which is a notification

issued by the State Government under Section 37 (1) and (2) of the Maharashtra Police Act, 1951. She would submit that in that view of the matter the circular is issued on 12.02.2024 whereas the present incident in question has taken place on the intervening night of 23.02.2024 and 24.02.2024. She would submit that in that view of the matter Court be pleased to consider that the Applicant has derelicted and used a weapon in committing the crime. I have applied my mind to the submissions made by the learned APP. However, in the facts of the present case, I am inclined to enlarge the Applicant on bail due to the reasons recorded hereinabove in paragraph No. 6.

8. Hence, the following order:-

(i) Applicant – Gautam Sitaram Sonawane, in connection with C.R. No. I-346 of 2024 registered with Kolsewadi Police Station, District Thane for the offence punishable under Section 307, 504, 341 of IPC and under Section 37 (1) 135 of the Maharashtra Police Act, 1951 is ordered to be released on bail on furnishing P.B. and S.B. in the sum of Rs. 30,000/- (Rs. Thirty Thousand only) with one or two sureties to the like amount;

(ii) Applicant shall report to the concerned Police Station, once every month on the first Monday of the month between 10.00 a.m. to 12:00 p.m.;

(iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted;

(iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(v) Applicant shall not influence the witnesses or tamper with the evidence in any manner; and

(vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time, as applicable.

(vii) Applicant shall not enter the jurisdiction of the concerned Police Station except for marking attendance before the Police Station and in the Trial Court for Trial.

9. Bail Application is allowed and disposed.

10. In view of the disposal of Bail Application, nothing survives in the Interim Application. Accordingly Interim Application stands disposed.