



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3452 OF 2022

Anwar Jhambya Shakir ShaikhApplicant

Versus

The State of Maharashtra ...Respondent

Ms. Sana Raees Khan and Mr.Aniket C. Pardeshi, Advocate for the Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th SEPTEMBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. 146 of 2021 registered with Swargate Police Station, Pune for the offences punishable under Sections 307, 120-B, 326, 324, 323, 504, 506, 143, 147, 148, 149 of Indian Penal Code, Section 4 read with 25 of the Arms Act, 1959, Sections 37(1) read with Section 135 of the Maharashtra Police Act, 1951, Section 3 of the Epidemic Diseases Act, 1897, Section 51(b) of the Disaster Management Act, 2005 and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (for short "MCOA Act").

2. It is the prosecution's case that one Ram Umap had lodged complaint at Swargate Police Station, Pune, stating that on 22nd August 2021 at about 7.00 a.m., he had gone to his sister's house for Rakshabandhan. When the informant was proceeding towards his sister's house, the present applicant abused him by using filthy words. The said quarrel was resolved by family members of informant. It is further alleged that on 23rd August 2021 at about 3.00 am to 4.00 am, informant heard some noise outside his house but he did not open the door due to fear. On the same day, at about 2.00 p.m. when informant was proceeding to his house, co-accused Akram Shaikh kicked him, therefore, informant questioned him, then co-accused Akram threatened him and left the place. It is alleged that informant along with his friends, Govind Kumbhar, Abhijeet Mirgane, Sagar Makal and Rahul More were proceeding towards Maharshinagar police chowky to lodge report at about 2.45 pm. Co-accused - Akram, present applicant, Shahrukh Shaikh, Amit Shekapure, Omkar Pawar and Imam Shaikh restrained them from proceeding towards the police chowky and assaulted them with sword and sickle. It is further alleged that co-accused - Akram Shaikh

gave blow of sword on his head and Shahrukh Shaikh assaulted informant's friend Govind Kumbhar by means of sword. The present applicant assaulted informant by means of scythe on his hands, while co-accused - Amit and Omkar beat informant by wooden stick on his legs. Thereafter, all accused fled away from the spot. On complaint, applicant and co-accused were arrested by police.

3. It is contention of learned counsel for applicant that allegation against applicant is that he assaulted informant with scythe on his hands, whereas injured witnesses have stated that applicant had assaulted Govind Kumbhar with sword. It shows discrepancy about role of applicant. Learned counsel further submitted that though Sections of MCOA Act are applied against applicant, no two charge-sheets have been filed against the applicant. Moreover, co-accused - Sharukh Shaikh against whom serious allegations are levelled has been released on bail by this Court. Hence, requested to allow the application.

4. It is contention of learned APP that applicant had assaulted first informant and other witnesses with scythe. Applicant was the member of organised syndicate crime. Weapon - tochy used in

the offence is recovered at the instance of applicant. If he is released on bail, he may threaten prosecution witnesses and he may abscond. Hence, requested to reject the application.

5. I have heard both learned counsel. In complaint, allegations against the applicant are that he assaulted first informant with scythe on his left and right hand. In the statement of eye-witness - Sagar More, he has stated that applicant assaulted informant's friend - Govind Kumbhar with tochy. Witness - Abhijeet also has stated the same fact. In the first informant's report, he has stated that co-accused - Sharukh Shaikh assaulted Govind Kumbhar with sword. The said fact is stated by Govind. Co-accused - Shahrukh Shaikh has been released on bail by this Court (Coram : N. R. Borkar, J.) by order dated 10th February 2023. The said order is not challenged by the State. In comparison with co-accused-Shahrukh's role, present applicant's role is lesser. Prosecution has not produced on record any document to show that more than one charge-sheet is filed against applicant for applicability of Section of MCOC Act. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed.

6. In view of above, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No. 146 of 2021 registered with Swargate Police Station, Pune, on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)