

Order below Exh.1 in Cri. Bail Application No.1592 /2022
(Purushottam @ Gagga Sanjay Giri -Applicant/Accused- 3, Nagesh @
Chimnya Harichandra Bhandari -Applicant/accused- 4 Vs. State)

This is an application for bail u/s. 439 of the Cr.P.C. in C.R. 166 of 2022 registered with Wadiwarhe Police Station, Tal. Igatpuri, District Nashik u/ss. 307, 504, 506 r/w.34 of The Indian Penal Code(IPC).

2. The learned counsel Mr.S.D.Walzade for the applicants submits that, applicants are innocent persons and they have been falsely implicated. They are ready to abide by any of the terms and conditions to be imposed by this Court. They are arrested on 03.11.2022, and now they are in the judicial custody. They have got fixed and permanent place of residence and undertakes to cooperate investigation. Nothing is to be recovered or discovered at their instance. No purpose would be served by keeping them behind the bar. Hence, he prays for bail.

3. Learned A.P.P.Mr.S.P. Gorwadkar by filing pursis (Exh.6) adopted say (Exh.5) filed by Investigation officer (I.O.) and strongly objected this application. I.O. Mr. R.B. Patil is present alongwith police papers. They have opposed this application on the grounds that, offence is serious, accused have been named in the FIR. Accused may abscond, hamper or tamper prosecution witnesses and evidence. They have got previous criminal antecedents.

4. It is the case of the prosecution as alleged that, on 02.11.2022 at about 10.30 p.m., on open place near hotel Bramhagiri, Wadiwarhe Kavti phata, behind Police Chaukey, all accused in furtherance of their common intention, i.e. accused 1 Sarang Mali-

voluntarily caused grievous hurt by means of dangerous weapon i.e. sickle on the head of ,Police Head Constable Yogesh Patil and attempted to commit his murder, accused 2 Tushar Bhagde voluntarily caused grievous hurt by means of dangerous weapon i.e. iron rod on the head of Nivrutti Tatde when he went to rescue police constable Yogesh Patil. and both the applicants instigated them, abused in filthy language and threatened to kill them.

5. It is necessary to mention that, the jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that, for the purpose of granting the bail, the Legislature has used the words, “ reasonable grounds for believing” instead of “the evidence ” which means the court dealing with the grant of bail, can only satisfy it, as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima-facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

6. I have given thoughtful consideration to the aforesaid submissions. Perusal of record reveals that, offences are serious in nature. Prosecution witnesses state about direct involvement of the accused in the crime. Applicants have got previous criminal antecedents

i.e. in Cr. No. 97 of 2022 of Igatpuri police station, u/s. 326, 143,147,148,149,504,506 Of I.P.C. and U/s. 37(1)(3) of Maharashtra Police Act & C.R. 9 of 22 U/s. 302, 307, 452, 143,147,148,149,323,504,506 of I.P.C. and 37(1)(3) of Maharashtra Police Act . Both applicants instigated, abetted & abused victims in filthy language and threatened to kill them. They have assaulted police head constable who was from Local Crime Branch. When, he inquired from the accused persons as to what was happening at that place, they got annoyed and inflicted blows by dangerous weapons on vital parts of the body, sustaining multiple injuries including grievous injuries. Applicants have abetted and instigated them. Offences are punishable with life imprisonment or imprisonment for ten years. In the circumstances, custodial interrogation is necessary. Chargesheet is yet to be filed. Applicants may hamper or tamper prosecution witness or evidence. Above grounds are not just and satisfactory for release of applicants on bail. Consequently, I am not inclined to exercise my discretion in favour of the applicants. Hence, the order.

ORDER

This application stands rejected.

Date : 23.12.2022.

(S.T. Tripathi)
Additional Sessions Judge,
Nashik.