

**ORDER BELOW EX. 01 IN CRIMINAL BAIL APPLICATION
NO. 309 OF 2022**

{Sunny Vivad Jagtap vs. The State of Maharashtra through Mumbai
Naka Police Station}

This is the bail application under section 439 of the Criminal Procedure Code, 1973 filed by the applicant-accused in crime No. 27 of 2022 registered with Mumbai Naka Police Station, Nashik for the offences punishable under sections 307, 143, 144, 148, 149, 504, 506 of the I. P. C. and section 4 read with 25 of the Arms Act.

02] The applicant contended that false and fabricated case is registered against him. Ingredients of section 307 of the I. P. C. are not made out. Nothing is to be recovered from the accused and his custodial interrogation is not required. The accused nos. 3 and 4 are released on anticipatory bail vide bail application nos. 139 of 2022 and 202 of 2022. He is just 20 years old and has no criminal antecedent. The complainant is discharged from the hospital and is out of danger. The incident happened suddenly. No purpose will serve to keep him behind bar. He has deep roots in the society. He is ready to abide by any conditions imposed by the court. So, he has prayed for grant of bail.

03] APP filed say at Ex. 04 and I. O. filed say at Ex. 05. They have stated that the offence is of serious nature. Accused have assaulted the complainant by sythe to kill him. The injuries are of dangerous nature. Their intention was to kill the complainant. Yet, the statements of the witnesses are to be recorded. If he is released on bail, he may threat the prosecution witnesses. Hence, they have prayed for rejection of bail.

04] Heard the learned counsel for the accused and learned APP. They have argued as per the above stand taken.

05] I have gone through application, say, arguments and Police papers. There is prima-facie case against the accused. F. I. R. shows that

the present accused in furtherance of common object with other accused attempted to murder the complainant. When the main accused assaulted on the head of the complainant that time, present applicant-accused and accused Rahul Pawar caught hold of the hands of the complainant. Several life threatening injuries are there on the head, chest and back of the complainant. Then, the present accused has also given kick and fist blows to the complainant and by means of bottle of beer assaulted on the head of the complainant. So, the overall conduct of the present accused shows that he shared common object to kill the complainant. He has active participation in the crime. He also has main role in the crime. To accused nos. 3 and 4, anticipatory bail was granted because their role was limited. Hence, parity can not be applied to this accused as his role is different and more dangerous than them. The investigation is going on. The accused was absconding after the crime shows his conduct that he may abscond if released on bail. The offence is of serious nature. The punishment is severed. The accused is not entitled for bail. Hence, the following order:

ORDER

Application is rejected.

Date : 09.03.2022

(R. R. Rathi)
Additional Sessions Judge-5,
Nashik.