



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3905 OF 2021

Akshay Uttam Bharti,]
Age: 224 yrs, Occ: Labourer,]
R/at: Sambhaji Nagar, Near Water Tank,]
Near Samadhan @ Lucky Gosavi's]
Grocery Store, Satpur, Nashik.]
(At present Nashik Road Central Prison,]
Nashik)] Applicant

Versus

The State of Maharashtra]
(At the instance of the P.I.-]
Gangapur Police Station, Nashik.)] Respondent

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Mr Aniket Nikam i/by Amit Icham for the Applicant.
Mr M. G. Patil, APP for the Respondent-State.

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CORAM : R. N. LADDHA, J.

DATE : 21 DECEMBER 2022.

P.C.:

Heard Mr Aniket Nikam, learned counsel for the Applicant,
and Mr M. G. Patil learned Additional Public Prosecutor for the
Respondent-State.

2. By this application, the Applicant is seeking bail in connection with C.R.No.57 of 2021 dated 17.03.2021 registered at Gangapur Police Station, Nashik, against the Applicant for the offences punishable under Sections 307, 324, 506, r/w Section 34 of the Indian Penal Code and Section 4(25) of the Arms Act.

3. The allegations against the Applicant and the co-accused are that they attempted to commit murder of the informant by assaulting him with a sword and sickles.

4. Mr Aniket Nikam, learned counsel appearing on behalf of the Applicant, submitted that the Applicant is languishing in jail since 17.03.2021. It is submitted that the co-accused having similar roles were already released on bail. It is submitted that the Applicant is ready to restrict himself from entering in the area of Nigel Park, Shivaji Nagar, Gangpur Shivar, Nashik. It is submitted that there is no possibility of the Applicant fleeing away or tampering with the witnesses. It is submitted that if the Applicant is enlarged on bail, he will not misuse the liberty of bail. It is submitted that the Applicant has a criminal antecedent, but this factor itself cannot be the basis for refusing of the prayer of bail.

5. Mr M. G. Patil learned Additional Public Prosecutor

appearing for the State opposed the prayer for bail but he fairly admitted that the other two co-accused were already enlarged on bail. It is submitted that several criminal cases are pending against the Applicant. It is submitted that in the present case, apart from the informant there are eyewitnesses to the incident.

6. This Court has perused the copy of the charge sheet filed along with the accompanying documents. A perusal of the complaint leading to the registration of the crime shows that all the accused, including the Applicant, are named as the assailants, and a specific role is attributed to each of them. It is alleged that the Applicant assaulted the informant by the sword, whereas the co-accused Aniket and Ravi assaulted the informant with sickles on his head. It also appears that all the accused have criminal antecedents but that itself cannot be the basis for the refusal of prayer for bail. The weapons, sword and sickles allegedly used in the crime were seized at the behest of the Applicant and the co-accused Ravi and Aniket, respectively. The co-accused Ravi and Aniket were already enlarged on bail. The trial is not yet started. The Applicant has been behind bars for more than twenty-one months. The Trial Court has exercised its discretion in granting bail to both the co-accused upon considering relevant material. No ex-facie error in those orders has been demonstrated by the learned APP that would establish that the exercise of discretion was inappropriate.

7. Given the above, the application is allowed in the following terms :

a) The Applicant Akshay Uttam Bharti be released on bail in connection with C.R.No.57 of 2021 registered at Gangapur Police Station, Nashik, on furnishing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the concerned Court.

b) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses. The Applicant shall furnish the permanent address and contact details to the Inspector of Police, Gangapur Police Station and intimate the change, if any.

c) The Applicant shall not enter the area of Nigel Park, Shivaji Nagar, Gangpur Shivar, Nashik, till the conclusion of the trial.

d) The Applicant shall regularly attend the proceedings before the Trial Court.

8. Needless to say, violation of any of the aforesaid conditions

will make the Applicant liable for cancellation of bail.

9. It is made clear that the observations made herein are prima facie, and the Trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

10. All the parties to act on an authenticated copy of this Order.

[R. N. LADDHA, J.]

BIPIN
DHARMENDER
PRITHIANI

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