

CNR No. MHNS010011922022

Order below Exh.1 in Cri. Bail Application No.355/2022.
(Pankaj Janardhan Mali Vs. State)

This is an application for grant of bail under section 439 of the Code of Criminal Procedure moved by the applicant in connection with CR No. I-390/2021 registered with Vadivarhe Police Station for the offence punishable U/s. 307,341,427,504,506 r.w.s. 34 of the Indian Penal Code (hereinafter referred to as "IPC" for short).

2. It is stated that the first informant Vishnu Walu Joshi R/o. Talogh, Tal. Igatpuri, Dist. Nashik lodged FIR on 13.11.2021 alleging that his son Ankush was deadly assaulted by the accused and therefore, the crime came to be registered against the present applicant-accused and other three accused as stated above. It is further stated in the application that the earlier Anticipatory Bail Application No.1585/2021 filed before this court was rejected and the second Anticipatory Bail Application No.72/2022 filed before Hon'ble Bombay High Court was also rejected. Consequently, the applicant-accused surrendered before the Wadivarhe police station on 6.3.2022. He was produced before the learned JMFC, Igatpuri and was remanded to police custody till 10.3.2022 and since then he is in MCR.

3. It is also stated that the injuries taken into consideration collectively do not make out offence under section 307 of IPC. The injured was discharged from the Civil Hospital within 5 days and since then he is doing his vegetable business in a routine way. The investigation is almost completed and there is no further need of detention of the applicant-accused in jail, these and

other grounds set out in the application, prayed to allow the application.

4. The bail application is opposed by the state by filing report on record. Heard both parties.

5. Heard, learned counsel Shri. M.Y. Kale for applicant-accused. He submitted that, the injured is already discharged from the hospital. The applicant-accused was apprehended on suspicion. On perusal of the injuries mentioned in the injury certificate section 307 of IPC is not attracted. They are not fatal so as to cause death of a person. He also submitted that, the applicant-accused has surrendered before the police and during the police custody alleged weapon i.e. Gupti was seized from the accused and therefore, nothing was remained to be recovered from him. The rest of the accused are pursuing their remedy of anticipatory bail which is pending before the Hon'ble Bombay High Court. Therefore, he submitted that the accused may be enlarge on bail with condition that may deem fit by this court.

6. On the other hand, the learned APP opposed the application and submitted that the anticipatory bail moved by this accused was rejected by this court as well as by the Hon'ble High court considering the fact that weapons used, injuries sustained by the victim and the role of the present accused in commission of present crime. He further submitted that, the incident had occurred on 13.11.2021, the FIR was lodged on the same day. However, the present applicant-accused came to be arrested on 6.3.2022 i.e. after near about 4 months of the incident and he is in MCR since last 10 days and considering the fact that investigation is in

progress, accused and the injured are residing in the same locality, the other accused are yet to be arrested, hence prayed to reject the application.

7. I have gone through the entire record. It is matter of record that the crime is registered with CR No.390/2021 at Wadivarhe Police Station on 13.11.2021 in respect of the alleged incident in between 12.11.2021 to 13.11.2021. The applicant-accused is facing charges under section 307,341,427,504,506 r.w.s. 34 of the IPC. The medical report filed on record shows that there are stabbing injuries on chest, which are grievous in nature.

8. On perusal of the police papers of investigation done so far. The Investigating Officer has seized the weapon used in commission of crime from the present applicant-accused. The vehicle used in commission of crime is also seized. The name of the present applicant-accused is mentioned in the FIR as well as statement of witnesses recording during the investigation. The present applicant-accused has played leading role in commission of crime by assaulting the injured by using Gupti and caused multiple incised injuries on his person particularly on the left side of chest. The statement of injured recorded in the hospital particularly pointed out that the applicant-accused had stabbed him by the Gupti on his left side of the chest and the other accused had also attacked him by wooden log. The accused ran away from the spot, when the police vehicle patrolling reached on the spot. Thus, there is prima facie case against the applicant-accused. Investigation is in progress, it would not be proper to allow the present application just on the ground that the injured is discharged from the hospital

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and is pursuing his daily activities. It should not lost sight of that other three accused are yet to be arrested. On these ground present application is devoid of merit and hence, following order is passed.

ORDER

- 1) Bail Application No.355/2022 stands rejected.
- 2) Inform the concerned police station accordingly.

Date 25.03.2022

(M.A. Shinde)
Additional Sessions Judge-8,
Nashik.