

Gajanan Vs. State
CNR No MHBU200006372022

Order Below Exh.1
Dt.19.10.2022

1. Applicant/accused seeking release on bail under section 439 of Code of Criminal Procedure.

2. Brief facts for the purpose of present application are as under :-

On the basis of report lodged by informant Crime No. 553/2022 is registered with Police Station Mehkar against applicant/accused and co-accused. In the present crime, police arrested applicant/accused and co-accused on 11-10-2022. Thereafter, applicant/accused and co-accused were remanded to P.C.R. till 14-10-2022 and thereafter to M.C.R. Now, applicant/accused is in jail. According to applicant/accused he is noway concerned with the alleged offence. He has not committed any offence. He is falsely implicated in the present crime on the suspicion only. Nothing to be seized from the applicant/accused. Hence, his further custody is not necessary. He is ready to abide by the conditions imposed by the court in case of releasing him on bail. Lastly, prayed to release him on bail.

3. Prosecution by filing say objected the application. Learned A.P.P. and investigating officer relying on F.I.R. and investigation papers, submitted that, offence is serious in nature. Accused persons used criminal force upon the police officials while they were discharging their duty. So also accused persons set on fire the offending vehicle. Accused persons also caused grievous injury to informant. If the applicant/accused is released on bail there is possibility of tampering with the prosecution evidence. Investigation is in progress. Hence, prayed to reject the bail application.

4. I have heard rival submissions. Perused case diary/investigation papers produced for perusal by prosecution.

5. Prosecution's case in short as per F.I.R. is as under :-

Informant lodged report contending therein that, on 02-10-2022 accident took place in between motorcycle and Tipper on Fardapur road. Therefore, informant Nandkumar along with other police official reached on the spot of incident. At that time, injured person was taken to hospital by Ambulance. A mob of 30 to 40 persons gathered on the spot of scene. Informant and other police official learnt that, motorcycle rider Suresh Vithoba Dhondge died in the incident. Thereafter, persons from the mob started shouting to pelt

stones on the Tipper and to set said Tipper on fire. Informant and other police officials attempted to persuade the mob, but the persons in the mob were not in a mood to listen. Thereafter, persons from the mob started pushing to police officials and thereafter they set on fire the offending Tipper by pouring petrol. When informant and police officials were taking shooting of the incident, persons from the mob snatched the mobile of informant and thrown it on the road, thereby caused loss to informant. At that time, one person from the mob caught collar of the shirt of informant and another person from the mob assaulted informant by slaps and fist blows. Thereafter, other persons from the mob also beat informant by fist and kick blows. Sagar Kharat and Kartik Kharat rescued informant from the clutches of mob. At that time, P.I. Pardeshi madam along with other staff reached on the spot of incident. Thereafter, persons of that mob went away from the spot of incident. In the incident rib of informant was fractured. Thereafter, informant lodged report against Pandhari Dhondge, Yogesh Dhondge and other persons of the mob. During investigation, involvement of present accused revealed.

6. In the present case, report is lodged on 03-10-2022. applicant/accused is arrested on 11-10-2022 and now he is in jail. Investigating officer also exhausted P.C.R. of applicant/accused. Considering the allegations levelled against

the applicant/accused, now nothing to be seized from him. No any criminal antecedents of applicant/accused are on record. It appears that, a person from the village of accused persons died in the accident with Tipper, thereby persons from the mob became aggressive and thereby present incident occurred. Considering this discussion, no purpose would be served by keeping the applicant/accused behind the bar. The apprehension of prosecution can be safeguarded by imposing stringent conditions while releasing the applicant/accused on bail. Therefore, I hold that, applicant/accused is entitled to be released on bail. Hence, the order.

ORDER

- 1) The application is allowed.
- 2) Applicant / accused Gajanan Nivrutti Jadhao be released on furnishing PB & SB of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount for the offences punishable under Sections 353, 333, 435, 143, 147, 149 of Indian Penal Code and U/s. 135 of Maharashtra Police Act in Crime No. 553/2022 registered at Police Station Mehkar on the following conditions :

(a) The applicant/accused shall remain present in concerned police station on every Monday in between 11-00 to 2-00 p.m. and also as and when called by the investigating officer on written intimation till filing of the charge-sheet.

- (b) The applicant/accused shall co-operate with the investigation.
 - (c) The applicant/accused shall not tamper with the prosecution evidence.
 - (d) Applicant/accused shall not influence or threaten to the witnesses.
- 3. Breach of any condition may lead to cancellation of bail.
 - 4. Bail before learned J.M.F.C.

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(S.M.Chandgade)
Additional Sessions Judge,
Mehkar