

**Order below application vide Exh. 19 of accused No.2 Amol
for grant of Bail under Section 439 of Cr.P.C.
(Passed on dated 17th January, 2020)**

1. Read the application for grant of bail of accused No.2 and reply vide Exh.22 of the Investigating Officer, Police Station, Renapur which has been adopted by Ld. Public Prosecutor as his say to the bail application by filing a pursis vide Exh. 23. Heard, the Ld. Advocate Shri. B. S. Kutwade for the accused No.2 and Ld. P.P. Shri. S. V. Deshpande for the State.

2. On perusal of the chargesheet including F.I.R., it appear that the complainant Shri. Shivaji Shrirangrao Bhise lodged a complaint to the Police Station, Renapur on 04.06.2019 in respect of the incident dated 03.06.2019 taken place in between 8.00 p.m. to 8.30 p.m. at Bhokaramba, Tq. Renapur. The complainant has alleged that he alongwith his brother Mohan possessed the agricultural land bearing Gat No.268 at village Bhokaramba, and they gave the said land on Batai basis to Pandurang Shevale, Balaji Kamble and Hanumant Gore. Accused No.1 is the adjoining cultivator. Accused No.1 has made the encroachment over the land of Zilla Parishad School in the said village, so the complainant lodged a complaint to the Gramsabha and filed the Public Interest Litigation before the Hon'ble High Court against the accused. Accused got annoyed due to the said

action of the complainant, and they started to cause obstruction to his Bataidars for cultivating the land of the complainant.

3. The prosecution has alleged that on 03.06.2019 at about 8.00 p.m. to 8.30 p.m., the complainant, alongwith his brother Mohan, their nephews Vishwajeet, Madan, Amit @ Pushkraj and the Bataidars Pandurang and Balaji, alongwith two tractors, had been to the agricultural land bearing Gat No.268 to plough the said land. At that time, they have seen the accused No.1 and his two sons i.e. accused No.2 and 3 present in his field alongwith axe, knife, chain and sticks in the light of Tractor and Batteries. Accused No.1 was holding the chain and stick, accused No.2 was holding a sharp knife and accused No.3 was holding a chain and stick. Accused No.2 and 3 assaulted upon the Vishwajeet Bhise. Accused No.2 gave a blow of knife on the stomach of Vishwajeet Bhise, and he was taken to the hospital on motorcycle. Accused No.1 threw the chilly powder on the face & eyes of Madan Bhise, and he had beaten the Pandurang Shevale by an axe. Accused No.3 Swapnil and accused No.2 had beaten the Pandurang Shevale, so he fell on the ground.

4. The complainant has alleged in complaint that the accused No.2 rushed towards the complainant alongwith knife, fell him on the ground, sat on his back, put the knife on the neck of the complainant by saying that he be kill him, but the others had pulled him. Accused No.2 bitten on the arm of Amit Bhise and threw the chilly powder on the face and eyes of complainant. The

complainant and the other injured went to the Police Station, Renapur and police referred them to Civil Hospital, Renapur and then referred to the Rural Hospital, Renapur, for treatment. Complainant has alleged that the accused have committed the above-said Crime due to the annoyance of the previous complaints. The Police Station Renapur has registered the Crime No. 234/2019 for the offences punishable under Sections 307, 447, 324, 323 r/w 34 of I.P.C., against the accused No.1 to 3. The investigating officer has arrested all the accused including the accused No.2 on 19.07.2019, sought the police custody remand and thereafter he was remanded to the magisterial custody. After the completion of investigation, the investigating officer has filed the charge-sheet against the accused No.1 to 3. The accused No.1 and 3 are on bail as per the order of the Hon'ble High Court Bench at Aurangabad.

5. Ld. Advocate for the accused No.2 has argued that this is a first bail application of the accused No.2 after his arrest. He has further argued that the complainant has lodged the false complaint against the accused by using the political influence due to the previous disputes in between them. He has further argued that the injuries shown to be caused to the injured by the seized knife is improbable one, and complainant got manipulated injury certificates being he is a doctor. He has further argued that the facts and circumstances on record do not constitute the commission of alleged offence of attempt to commit murder of witness Vishwajit against the accused No.2. He has further argued that no purpose would be served by detaining the accused No.2

further being he is under detention since 19.07.2019. He has prayed for grant of bail to the accused No.2.

6. The learned advocate for the accused No.2 has relied upon the ratio laid down in authorities as under.

i) In the case of **Dr.Krishna Saxena Vs. C.B.I., reported in 2018, All SCR (Cri.)1316** the Hon'ble Supreme Court held that “Considering the totality of facts, period of custody suffered by the accused, the fact that co accused already released on bail as also the fact that the trial is likely to take some time, we are inclined to release the accused on bail”.

ii) In the case of **Satyavatibai Chavan Vs. State of Maharashtra, reported in 2009, All M.R. (Cri.) 2257,** the Hon'ble Bombay High Court Bench at Nagpur has held that “Even a criminal has a right to protect his liberty and his liberty cannot be interfere with on the specious plea that he is criminal”.

iii) In the case of **Prabhu Bade Vs. State of Maharashtra, reported in 2016, All M.R. Cri.3508,** the Hon'ble Bombay High Court Bench at Aurangabad has held that, “There was no evidence to show that accused made any other or repeated attempt to cause injury against the complainant and his brother with intention to kill was not established. An offence of attempt to murder was not made out”.

7. The learned P.P. has argued as per the say of the

Investigating Officer. He has submitted that the stab injury caused to the injured witness Vishwajeet is a dangerous to his life, and the knife is dangerous weapon which has been recovered and seized from the accused No.2. he has further argued that, the anticipatory bail application filed by the accused No.2 was rejected by this court and accused No.2 is the main accused in this crime. He has strongly opposes the bail application of accused no.2.

8. The complainant has filed the affidavit alongwith some documents opposing the bail application of accused No.2 as per the list of documents Exh.27.

9. On perusal of the charge-sheet and documents including 7-12 extract on record, prima facie it appear that the complainant and his brother Mohan are shown to be recorded owners and possessors of the agricultural land bearing Gat No.268 situated at Bhokramba. It further appears from the record that the complainant had filed the P.I.L. No.68/2018 before the Hon'ble Bombay High Court Bench at Aurangabad, and said P.I.L. was disposed of on 24.07.2019, and the Hon'ble High Court has observed about the pendency of suit vide Spl. C. S. No.304/2018 and R.C.S. No.5/2017 in respect of alleged encroachment. The learned advocate for the accused No.2 has stated that the complainant and accused have filed various complaints against each other to various departments. The accused No.1 is the adjoining cultivator of field bearing Gat no.268 of the complainant, and accused No.2 and 3 are the sons of accused

No.1. Prima facie, it appears that the terms of complainant and accused are inimical and accused have grudge against the complainant for filing the complaints and P.I.L.

10. On perusal of the charge-sheet, it appears that the accused No.2 Amol played vital role in commission of alleged crime. Prosecution has alleged that the accused No.2 caused a stab injury on the stomach of the injured witness Vishwajeet by assaulting with a knife. It has been further alleged that accused No.2 assaulted upon the Bataidar Pandurang Shevale and also made the complainant to fell down on the ground, he sat on his back and put a knife on the neck of him by saying that he will kill him. Prosecution has further alleged that accused No.2 bitten on the arm of the witness Amit and thrown the chilly powder on the eyes & face of the complainant. The injury certificate of injured Vishwajeet Bhise is produced on record, in which the deep penetrating stab injury on the right hypocondrium is shown to be caused to him. The size of the said stab injury is shown as 4 x 3 x 12 c.m. and it is dangerous and life threatening injury caused by the knife.

11. As per the charge-sheet the investigating officer has recovered and seized a knife from the accused No.2 in pursuance of his statement under Section 27 of the Evidence Act. The seized knife is shown to be of 27 c.m. long with a blade of 13 c.m. and handle of 14 c.m., width of blade towards the handle side is 3.1 c.m. and towards the pointed side is 3 m.m., having dried reddish

stains. The investigating officer has seized the shirt of the injured Vishwajeet with having the cut on the right side of the shirt due to the knife blow and blood stains on it. The accused No.2 has sustained the injuries such as C.L.W. and Contusions. On perusal of the statements of the complainant and other witnesses present on the spot of incident, they have stated about the acts of accused No.2 as stated in complaint. Thus, prima facie, it appears that accused No.2 played a vital role in commission of alleged Crime including the causing the life threatening injury with the knife to the injured witness Vishwajeet Bhise on his stomach.

12. The alleged offence under Section 307 of I.P.C. is punishable upto life imprisonment and it is serious in nature. As per the say of the investigating officer, the Crimes such as C.R.No.89/2018 for the offence punishable under Section 379 of I.P.C. and Cr. No.360/2018 for the offences punishable under Sections 341, 447, 504 r/w. 34 of I.P.C. are registered against the accused No.2 at Police Station, Renapur. Looking to the major role of the accused No.2, inimical terms in between the accused and complainant and registration of the earlier crimes against him, the possibility of pressurizing and threatening to the complainant /injured witnesses by the accused No.2 cannot be ruled out, if he is released on bail. Moreover, the accused No.2 was taken by the Police to the Govt. Hospital, Latur for treatment on 4.6.2019, but he ran away from the hospital, and he had remained absconded till 18.7.2019 i.e. for about 1½ months. The said fact is mentioned in police intimation letter issued by Govt. Hospital to P.S. Gandhi

Chowk, Latur. This is not a fit case to grant the bail to the accused No.2 by using discretion in favour of him. Thus, the accused No.2 is not entitled to get the relief of bail as claimed. In result, instant application is liable to be rejected and I proceed to pass the following order.

ORDER

Application vide Exh. No.19 of accused No.2 Amol
S/o. Shrikishan Bhise, R/o. Bhokramba, Tq. Renapur,
Dist. Latur for grant of bail, is hereby rejected.

(Dictated and pronounced in open Court.)

Dated : 17.01.2020.
Latur

(D. P. Ragit)
Additional Sessions Judge-4,
Latur.