

Sessions Case No.803/2017

(CNR NO.MHPU01-014181-2017)

ORDER BELOW EXH.21

1] By filing this application under Section 439 of the Code of Criminal Procedure, the applicants accused Akash Vijay Kalekar and Vikky Vijay Kalekar requested to release them on regular bail, in connection with Crime No.297/2017 registered with Warje Malwadi police station, for the offences punishable under Sections 141, 143, 144, 148, 149, 326, 307, 504, 506 of IPC and under Section 4(25) of the Arms Act and 37(1) r/w. 135 of the B.P.act.

2] Briefly stated the prosecution case is that the complainant Nitin Genbhau Sangale made his statement dated 31/7/2017 on the allegation that on 29/7/2017 he has attended the Court for his case. Akash Kalekar, Vikas Shirsat, Dadya Kalekar has met and gave threats that his friend Bablu Khatape has initiated false case against them and they told that they will see him . On the same day at evening time, Dadya Kalekar gave me phone call and abused him and told that तुला मस्ती आली का. Thereafter on 30/7/2007 at about 8.30 p.m. the complainant was in his saloon shop that time Dada Kalekar gave a sickle blow on the glass of the shop and broken it. Ganesh Wanjale, Pandurang Wanjale, Vikas Shirsat snatched the complainant from the shop and taken him out of the shop. The accused Ganesh Wangjale has assaulted by a sickle on his head, Vikas Shirsat assaulted by sickle and the present applicant Pandurang Wanjale has assaulted by stone on his back. The accused Dada Kalekar has stabbed the weapon on his back. Akash Kalekar and Vicky Kalekar has gave a sickle blow due to that he received the serious injuries. On his statement the crime has been registered.

3] It is submitted that the investigation is completed and chargesheet has been filed. The applicant accused are arrested on

suspicious ground. One of the accused released on bail, hence parity ground applicable to the accused. The applicants are permanent resident of Pune. There is no any recovery or discovery at their instance. The applicants are innocent and have not committed any offence. They are ready and willing to furnish surety to the satisfaction of the Court and undertake to abide all the terms and conditions imposed by the Court. Lastly prayed to release them on bail.

4] In response to the notice, the prosecution resisted the application by filing say thereon contending interalia that the offence is very serious in nature. The accused have assaulted by sickle on vital part of body. Name of the accused are in FIR. Role of the accused is revealed in the chargesheet. Statements of the witnesses are there. If released on bail, there is possibility of pressurizing the witnesses. Lastly prayed to dismiss the application.

5] Heard Smita Padole advocate for the applicants and Smt. Deshmukh APP for the prosecution. Read the case papers and the FIR. It reveals that the complainant Nitin Genbhau Sangale made his statement dated 31/7/2017 on the allegation that on 29/7/2017 he has attended the Court for his case. Akash Kalekar, Vikas Shirsat, Dadya Kalekar has met and gave threats that his friend Bablu Khatape has initiated false case against them and they told that they will see him . On the same day at evening time, Dadya Kalekar gave me phone call and abused him and told that तुला मस्ती आली का. Thereafter on 30/7/2007 at about 8.30 p.m. the complainant was in his saloon shop that time Dada Kalekar gave a sickle blow on the glass of the shop and broken it. Ganesh Wanjale, Pandurang Wanjale, Vikas Shirsat snatched the complainant from the shop and taken him out of the shop. The accused Ganesh Wangjale has assaulted by a sickle on his head, Vikas Shirsat assaulted by sickle and the present applicant Pandurang Wanjale has assaulted by stone on his back. The accused Dada Kalekar has

stabbed the weapon on his back. Akash Kalekar and Vicky Kalekar has gave a sickle blow due to that he received the serious injuries. On his statement the crime has been registered.

6] On going through the rival submissions as well as the observations made by this Court in Criminal Bail Application No. 2998/2017 in Para.No.6 it appears that so many offences are pending against the applicants. The crime nos. 136/2013 under section 326, 34 of IPC, 146/2013 under section 457,380 of IPC, 150/2013 under section 454,380 of IPC, 179/2013 under section 457,380 of IPC, 322/2013 under section 326,323,504, 34 of IPC, 158/2014 under section 392, 34 of IPC, 179/2014 under section 379 of IPC, 206/2014 under section 394,337,323,34 of IPC and 142 of Bombay Police Act also preventive actions bearing no. 37/2013 under section 110(a)(e)(g) of Cr.P.C., Tadipar reort 1/14 dt. 10/2/2014, the order of Police commissioner bearing no. 23/14 dated 14/4/2014, report no. 1/14 dated 7/10/2014 registered with Warje Malwadi Police station are pending against the accused No. 1 Akash Kalekar. Further it appears that the crime no. 135/2011 under section 143, 147, 149, 232, 504 of IPC, crime no. 158/12 under section 379, crime no. 180/12 under section 379, crime no. 181/2012 under section 379, crime no. 183/14 under section 324, 34 registered against the applicant Vicky Vijay Kalekar at Warje Malwadi police station. Also Tadipar report no. 3/12, 27/12 under section 110 of Cr.P.C. bearing no. 21/14 have been taken against the applicant Vicky Vijay Kalekar.

7] On going through the entire case papers as well as the charge-sheet, it appears that the applicants are habitual offenders on record and in view of the ratio laid down by the Hon'ble Supreme Court in **Neeru Yadav Vs.State of Uttar pradesh and Anr. Reported in AIR 2015 SC 3703** the Hon'ble Supreme Court has observed that:-

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of accused cannot be ignored- Accused, an history sheeter involved in number of crimes which are of heinous nature-High Court granted bail without taking into consideration relevant factors including criminal antecedents of accused-Order of High Court granting bail to accused solely on basis of parity, set aside.

Hence, the applicants are not entitled to be released on bail.

8] In the light of above observation it appears that the application is deserved to be dismissed. In the result, I proceed to pass the following order.

ORDER

The application is hereby dismissed.

(V.K.Kadam)

Date: 04.04.2018

Additional Sessions Judge, Pune.