

Sessions Case No.803/2017

(CNR NO.MHPU01-014181-2017)

ORDER BELOW EXH.76

1] This is a third bail application filed by the applicant accused Akash Vijay Kalekar under Section 439 of Code of Criminal Procedure, requesting to release him 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 given 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 other accused have been released on bail. Applicant is arrested on 31.07.2017. The investigation has been

completed and charge-sheet has been presented in the Court. The sole ground on which the application for bail of the accused has been rejected is that there are criminal antecedents and several cases are pending against him. But said cases are distinct and separate and have no bearing in the present case. In the circumstances, the applicant is praying for bail on parity as his role is of limited nature and less serious. There is no any recovery or discovery at the instance of applicant. The applicants are innocent and have not committed any offence. He is 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 and also undertakes not to tamper with the prosecution witnesses and the material collected at the time of investigation. Lastly prayed to release him 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. Name of the accused is in FIR. He has used deadly weapons. Clothes of the accused are seized. There are blood stains on it. Assault is on vital part of body. Medical evidence is on record. If released on bail, there is possibility of pressurizing the witnesses. Lastly prayed to dismiss the application.

5] Heard learned advocate for the applicant 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 given 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, it appears that this is a third bail application of the applicant. The first bail application was prior to filing of chargesheet. Thereafter, after filing the chargesheet the applicant has made his application for bail below Exh.21 and detailed order has been passed and his bail application has been rejected. I have already observed while passing order below Exh.21 in para No.6 that so many offences are pending against the applicant. The crime no. 136/2013 under section 326, 34 of IPC, Crime No. 146/2013 under section 457,380 of IPC, Crime No. 150/2013 under section 454,380 of IPC, Crime No. 179/2013 under section 457,380 of IPC, Crime No.322/2013 under section 326,323,504, 34 of IPC, Crime No. 158/2014 under section 392, 34 of IPC, Crime No. 179/2014 under section 379 of IPC, Crime No. 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 report 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 Akash Kalekar. So, it is crystal clear that he is habitual offender. Further, the prosecution has raised objection that if the applicant is released on bail, the possibility of his

pressurizing the witnesses, cannot be ruled out and he will flee away and abscond from the justice. Taking into consideration the facts and circumstances of the case and criminal antecedents against the applicant-accused, the applicant-accused is not entitled to be released on bail. It is a mockery of justice making applications again and again before this Court. So the applicant is not entitled to be released on bail.

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

ORDER

The application Exh.76 filed by applicant-accused Akash Vijay Kalekar is hereby rejected.

(V.K.Kadam)

Date: 28.01.2019

Additional Sessions Judge, Pune.