

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.488 OF 2015

1 Nilesh Balwant Jadhav
2 Shrikrushna Chandrakant @ Dattatray KadApplicants.
Versus
The State of Maharashtra & Anr. ...Respondents.

Mr. Uday P. Warunjikar i/by Mr. Subhash Hulyalkar, advocates for the Applicants.
Mr. D.P.Adsule, APP for the respondent-State.
IO Mr. Maruti Khedkar, API attached to Chakant Police Station, Pune Rural present.

CORAM : MRS. MRIDULA BHATKAR, J.

DATED : March 27, 2015.

P.C.:

Pursuant to the order passed by this Court, Assistant Police Inspector Maruti Khedkar has filed affidavit answering the queries made by this Court in respect of delay of two months in recording the statement of the injured. The explanation given by the police officer is not to the point. Excuses given for not recording statement can not be acceptable. It is high time for the police to learn that it is their duty to investigate the offence and it is not a duty of the relatives of the complainant to come there and inform them about the condition of the complainant from time to time. When the complainant has started staying in Tingre Nagar, Haveli

District, Pune, the officer has made a statement that the said place come under the jurisdiction of pune area and therefore, he could not record statement of the injured. The entire explanation is just a lame excuses to cover up complete lethargy and negligence on the part of I.O. These observations are to be entered in his service book.

2 Regular Bail Application No.488 of 2015 is now moved as the offence is registered against the two applicant-accused as they are prosecuted for the charges under Sections 307,324,326, 323, 504,506, 143, 147, 148, 149 of the IPC in C.R. No.534 of 2014 registered at Chakan Police Station, Pune (Gramin). The applicants-accused along with the other accused as per the case of the prosecution have assaulted injured Amol Govind Tope brutally. He sustained grievous injuries on his head, stomach and limbs. He was shifted by his brother to Unicare Hospital, Chakan in the ICU. He was hospitalised more than 21 days in the hospital. When he was shifted to the hospital, he was unconscious.

3 Mr. Warunjikar has submitted that there is no eye witness to the incident. Incident has taken place on 3.11.2014. Out of suspicion police have arrested both the applicant -accused on 5.11.2014. Thereafter there is no evidence against them. There is no witness stating the names of these two accused. The learned counsel submitted that statement of

the injured Amol Tope was recorded on 30.1.2015 almost after about three months of the assault. Injured has given the names of these two applicants-accused. The learned counsel submitted that the injured was available to the police for recording of the statement after he became conscious or when he got discharged from Aditya Birla Hospital on 28.11.2014. He submitted that considering this applicants are to be released on bail. They would abide by the conditions imposed by this Court.

4 The learned prosecutor submitted that injured was brutally assaulted. He was unconscious when he was shifted to hospital by his brother complainant. Police have taken custody of the applicants-accused on grave suspicion, which was subsequently substantiated in the statement of Amol, which was recorded on 30.1.2015. The learned prosecutor confirms that there are no criminal antecedents against the applicants-accused.

5 Perused the FIR and the statements. Charge-sheet is filed by the police on 1.2.2015 after recording statement of the injured Amol on 30.1.2015. Undoubtedly, injured has given names of these two applicants-accused that they assaulted him and also he has mentioned the manner in which they assaulted him. However, I failed to understand why police did not record his statement when he was available after 28.11.2014 or in

the month of December, 2014. On query made by this Court, lame excuses are given by the Investigating Officer, which are not at all acceptable to this Court. Undoubtedly the statement of the injured will be decided at the time of trial independently. However, considering that the applicants-accused were taken in the prison on suspicion on 5.11.2014 and as the charge-sheet is filed on 2.2.2015, I grant them bail on following terms and conditions:

- i) Both the applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- each , with one surety in the like amount;
- ii) The applicants-accused shall not indulge into any criminal activity. They shall not threaten or pressurize complainant, injured and the witnesses.
- iii) Breach of these conditions will amount to cancellation of this bail forthwith. Prosecution shall apply to the Court immediately.

(MRS.MRIDULA BHATKAR, J.)