

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 166 OF 2017**

Sopan alias Pappu Maruti Gavali	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Yashodeep Deshmukh i/b Mr. Subhash Hulyalkar for the Applicant

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 29th MARCH, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 371 of 2016 registered with the Bhosari Police Station, Pune for the alleged offences punishable under Sections 307, 324, 323, 506 r/w 34 of the Indian Penal Code and Sections 4(25) of the Arms Act and Section 37(1) r/w 135 of the Bombay Police Act.

3. Learned Counsel for the applicant submits that the applicant is only alleged to have assaulted the injured Vishal Narwade with fist and kick blows. He submitted that the actual assailant is Barkya Gavali, who is alleged to have assaulted Vishal Narwade with a sword. According to him, the injuries were caused as a result of the assault by sword on Vishal.

4. Learned A.P.P opposed the bail application.

5. Perused the papers. The incident in question has taken place on 13th October, 2016 at about 11/11:10 p.m. According to the injured Vishal Narwade, the present applicant came up to him and his friends when they were at a *paan* stall at about 11:00 p.m. He has stated that the applicant started a quarrel on account of a previous dispute. According to Vishal Narwade, when he told the applicant not to quarrel and that they would sort out the dispute amicably, the applicant told him “*Tumhala lai maj aala aahe tumhala dakhavto*” and thereafter went away. He has further stated that while going towards his residence at about 11:10 p.m., the applicant came there along with his brother co-accused Barkya Gavali. He has stated that co-accused Barkya Gavali was armed with a sword and

assaulted him with the same on his head. He has stated that when his friend Dilip Pachange came to save him, co-accused Barkya Gavali also assaulted him with a sword. He has further stated that when they cried for help, the people around the area closed their windows and doors after seeing the sword in Barkya Gavali's hand. According to Vishal Narwade, the applicant gave him fist and kick blows on his stomach, as a result of which, he fell down and thereafter picked up the cover of a chamber gutter and threw it on his head, pursuant to which, he sustained grievous injury and became unconscious. The said statement is supported by three eye-witnesses i.e. Dillip Pachange, Mangesh Suryawanshi and Tirhi @ Shahid Shah. The statement of the complainant Rahul Narwade i.e. brother of the injured shows that when he reached on the spot on receiving the information, he saw that his brother was lying on the road with the cover of the chamber gutter on his head. The medical certificate of Vishal Narwade also shows that he had sustained CLW over his head.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected. However, in the peculiar facts of the case, the trial is expedited.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.