

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 452 OF 2017**

Yuvraj Bhausahab Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kuldeep S. Patil for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

API Mr. V. J. Sapre from Khandeshwar Police Station, Navi Mumbai is present.

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 12th APRIL, 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. I-183 of 2016 registered with the Khandeshwar Police Station, Navi Mumbai, for the alleged offences punishable under Sections 307, 327 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that the incident occurred on 19th September, 2016 at about 9:45 p.m, however, the FIR has been lodged on the next day. He submitted that the injury sustained by the complainant is on his hand i.e. fracture of ulna.

4. Learned A.P.P opposed the application. She submitted that the complicity of the applicant is seen from the complaint lodged by the complainant. She submitted that the applicant has been identified in the identification parade by the complainant. She further submitted that the CCTV footage shows the presence of the applicant at the spot. She has further submitted that the applicant has three antecedents; one under Sections 324 and 323 of the IPC; second under Section 392 of the IPC and the third under Section 370 of the IPC.

5. Perused the papers. The complainant is Navnath Tukaram Mengade. He has stated that the incident took place on 19th September, 2016 at 9:45 p.m. when he was sitting with his friends in a hotel. He has stated that at around 10:35 p.m. when they were having their dinner, one

unknown person came near their table and asked him to come out for two minutes as he wanted to speak to him about something important. Accordingly, the complainant went outside the hotel. According to the complainant, the said unknown person asked him why he was teasing one Sapna, to which, he replied that he did not know any girl by the name Sapna. The said unknown person thereafter told the complainant whether he thought he was a BJP Neta and that he was getting too big for his boots and stated that he would teach him a lesson forever and would put him in place. Pursuant thereto, the said unknown person asked his friend who was standing there to hand over an iron rod to him. The said unknown person handed over the iron rod pursuant to which, the applicant assaulted the complainant with an iron rod on his head. The complainant tried to dodge the blow on the head by raising his hand, as a result of which, he sustained an injury on his hand. Thereafter, the complainant ran to some hotel and confined himself in a bathroom. It is alleged that the applicant went to the said spot with the iron rod and again assaulted the complainant. In the identification parade, the complainant has identified the applicant as being the assailant who assaulted him with an iron rod. The medical certificate shows that the complainant has sustained a fracture on his hand

(right Ulna fracture) and abrasions over right upper limb and lower limb and CLW on right forearm.

6. It appears that soon after the externment order of the applicant was quashed, the present incident has taken place. Apart from the aforesaid, the applicant has three antecedents against him. All are bodily related offences. Considering the material on record, the possibility of the applicant tampering and threatening the complainant cannot be ruled out. Accordingly, the application stands rejected.

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.