

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1987 OF 2017

Ramkrupal Kededin Yadav @ Badkauv ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Ganesh K.Gole for the applicant.
Mr. R.M.Pether, APP for the State.
P.I.Suresh Aher Ulhasnagar Police Station.

CORAM: A.M. BADAR, J.
DATED: 13th OCTOBER, 2017

PC:-

1. The applicant accused in Crime No.I-104 of 2017 registered by Police Station Ulhasnagar for the offences punishable under Sections 307, 324, 323, 143, 147, 149 of the Indian Penal Code at the instance of Rizwan Jamil Chowdhary.

2. Heard the learned advocate appearing for the applicant/accused. He argued that statement of Sanaulla does not show that the applicant had injured him in any manner. The learned advocate further drew my attention to

injury certificates in order to submit that the case is not falling under Section 307 of the Indian Penal Code. The learned APP placed reliance on the report submitted by P.I , Ulhasnagar Police Station stating that inall seven offences are registered against the present applicant and Crime No. I-104 of 2017 is registered against him on the basis of report lodged by the Municipal Commissioner of the concerned Municipal Corporation. Considering the criminal antecedents of present applicant he is not entitled for bail. There is every likelihood that the applicant if released on bail may indulge in commission of crime in future.

3. I have considered the rival submissions and also perused the charge sheet.

4. On 7.4.2017 FIR came to be lodged by Rizwan stating that Sanaulla had given accidental push to Nandlal which has resulted in the incident of assaulting member of the prosecuting party. By forming an unlawful assembly, the

present applicant and other persons indulged in riot and assaulted Sanaulla as well as Sufiyan. They also injured him when he attempted to specify the members of the unlawful assembly.

5. Injury certificates shows that Sufiyan has suffered one abrasion of size 0.2 X 0.2 cm on right side of the face. Sanaulla had suffered 2 stab wounds which are described as simple by the medical officer. First informant Rizwan had suffered CLW of size 1 X 1 X 0.5 cm which is also said to be simple in nature. For attracting section 307 of the Indian Penal Code causing wound is not at all required. What is required is intention coupled with overact. The question, as to whether, Section 307 r/w 149 of the Indian Penal Code is attracted or not will have to be considered at the time of the trial. However, at this stage, nature of wounds vis-a-vis numbers of members of all the alleged unlawful assembly indicate that if they intended to kill the member of the prosecuting party, they could have done so.

6. Be that at it may, at pre-trial stage there is presumption of innocence of the accused. After completion of the investigation the chargesheet has been filed. The only question is whether with chequered criminal history the applicant deserves liberty. The apprehension of the prosecution that, if released on bail the applicant will commit similar offences in future can be taken care of by imposing stringent condition in this order itself which shall entail curtailing of liberty, in such eventuality. There is no tangible material to demonstrate that the applicant will not be available for trial or consequently for undergoing sentence if any. Therefore the following order.:

ORDER

(i) The applicant/accused in Crime No. I-104 of 2017 registered by police Station Ulhasnagar for the offences punishable under Sections 307, 324, 323, 143, 147, 149 of the Indian Penal Code be released on executing PR bond or Rs.25,000/- and on furnishing one or two sureties in the like amount.

- (ii) As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- (iii) He should not tamper the prosecution evidence.
- (iv) As a condition of this order, the applicant should attend office of police inspector of crime branch Ulhasnagar on every 4th Sunday of the month in between 11.00 a.m. to 1.00 p.m. till conclusion of the trial.
- (v) The applicant shall not repeat commission of any offence in future while enjoying liberty by this order. Any breach of this condition shall result in forfeiture of liberty granted to the applicant by this order.
- (vi) Parties to act on an authenticated copy of this order.
- (vii) The application is disposed of accordingly.

(A.M. BADAR, J)