

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.66 OF 2018

Rajesh Maruti Kadam	..Applicant
vs.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.105 OF 2018**

Bhaskar Ramdas Raut	..Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Satyavrat Joshi for the Applicants .
Mr. S. R. Agarkar, APP for the Respondent.
Mr. P.S. Kamble, Havaladar, Lonavla Gramin Police Station.

CORAM : P. N. DESHMUKH, J.
DATE : 8th MARCH, 2018

P.C.:

. Both these applications since are arising out of same C.R. No.175/2017 registered with Lonavala Rural Police Station, Pune for the offence punishable under sections 307, 326, 324, 341, 143, 147, 148, 149, 504, 506 of the IPC, the same are decided by this common order.

2. Heard Mr.Joshi, learned counsel for the Applicants and Mr.Agarkar, learned APP and also perused compilation of charge-sheet provided by learned counsel for the Applicant. It is submitted for applicant that no specific role is attributed to either of the applicants and by referring to injury report it is submitted that in all 5 injuries are certified to have sustained by the injured complainant Madhukar Pandurang Kadu which according to his report can be attributed to co-accused whose physical description is mentioned in the report and rest of the assailants, who have

assaulted by rod, sticks and kick and fist blows.

3. Referring to the above contents along with injury certificate, it is therefore contended if the person is assaulted by 10-15 assailants at a time there has to be more than 5 injuries and since according to the injury report no such fact can be seen, complainant has exaggerated the report. It is further submitted that in the report complainant states that two persons residents of village Mulshi and Pound respectively, who were the close relatives of Mr. Kadam and Mr. Nathu Kedari were amongst the assailants. It is submitted that merely on the basis of the above information applicants came to be arrested on 29/11/2017 and thus contended that for the grounds as aforesaid applicants be released on bail subject to conditions.

4. Learned APP opposed the application and had submitted that from the contents of report, applicants involvement is established in the present crime. He further referred to additional statement of complainant wherein he has stated names of both the applicants as his assailant, whose names are stated to be learnt by the complainant subsequently.

5. Considering this aspect of the case, it is material to note that additional statement of complainant is recorded on 1/2/2018, while both the applicants are arrested much prior to that on 29/11/2017. Therefore after effecting arrest of applicants, their names appears to have been included by the complainant in the additional statement.

6. Perusal of the injury report of complainant reveals that he has sustained 5 injuries out of which one is head injury, stated to have caused by unknown persons. Considering the number of injuries mentioned in the injury report and from the contents of report as it appears that 10-15 persons opened assault on the complainant by iron rod, sticks and fist and

kick blows at one and the same time such contents, prima facie does not appear to be convincing.

7. Similar is the case of Santosh who according to the complainant was also assaulted by the assailant by stick on his back and legs. Injury report of Santosh reveal that he has sustained injury to his hand and at the time of examination was unconscious with nausea and contusion on left side of chest. The history given by him was of assault by group of 10 persons.

8. Considering the evidence available against the applicant as aforesaid, identification of applicants itself appears to be doubtful as in the memorandum of test identification parade, though both the applicants are found identified by the complainant, same is held on 23/2/2018 i.e. after recording additional statement of complainant.

9. In view of the facts as aforesaid, Applications are allowed as per the order below:

ORDER

- i) Applicants be released on bail on their executing P.R. Bond in the sum of Rs.40,000/- each with one surety each in the like amount;
- ii) While on bail, the applicants shall mark their presence with Lonavala Rural Police Station on the first day of each month initially for a period of 6 months and thereafter quaterly on the first day of each such month pending trial ;
- iii) Applicants shall not tamper with the investigation/witnesses;
- iv) Applications are accordingly disposed of as allowed

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(P.N. DESHMUKH, J)