

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 792 OF 2018**

Nilesh Devidas Kamble. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Mr. Aniket U. Nikam, advocate for applicant.

Mr. Vinod Chate, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 22, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 27/3/2017 in Crime No. 78 of 2017 registered with Chinchwad Police Station, for offence punishable under section 307, 326, 323, 504 r/w. Section 34 of the Indian Penal Code and under section 37(1)(3) read with section 135 of the Bombay Police Act and under section 4(25) of Arms Act.

3 It is the case of the prosecution that on 25th March, 2017

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Abhijit Chavan lodged a report at the police station alleging therein that on 25/3/2017, he was proceeding on his motor cycle with one of his friend Vishal Sonawane. On the way he was stopped by Mahadev Tupe and present applicant. They asked whether he wants to quarrel. There was some altercation. In the meanwhile, the present applicant is alleged to have drawn sickle and assaulted the complainant on his forehead and on his wrist. It is alleged that Vishal Sonawane had tried to intervene and he was assaulted by Sandeep Bade. On the basis of the said report FIR is lodged.

4 Upon perusal of the injury certificate of the complainant, it appears that when he was taken to hospital on 25/3/2017 at about 8.44 p.m. he was smelling of alcohol. He had sustained deep contused lacerated wound on frontal scalp vertically 7 cm. X 1 x 0.5 cm., one on the hand palmar aspect and third one on the left Ring and left middle Ring. The injury certificate of Vishal Sonawane shows that the "history of assault was by unknown person on 25/3/2017 at 7.30 p.m. near PCMC School, weapon not known". That he had sustained CLW on his frontal region and on the wrist.

5 The learned Counsel for the applicant submits that both the injured witnesses do not appear to be sure as to who exactly assaulted

them since the first information report indicates that it was Sandeep Bade who had assaulted Vishal Sonawane, whereas injured Vishal claims that he was assaulted by Nilesh Kamble.

6 Be that as it may. Upon considering the papers of investigation and more particularly, the fact that the applicant has been in custody for more than one year, this Court is of the opinion that his incarceration would not be imperative.

7 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

8 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall not tamper with the evidence.

(iv) The applicant shall give an undertaking to the concerned police station within two weeks from his release that he would attend

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all the dates of the trial. He shall also furnish his residential address as well as his contact number such as cell phone number, landline number etc.

9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]