

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

CRIMINAL BAIL APPLICATION NO. 3126 OF 2018

1. Sachin Kamalakar Thakare-Patil
2. Dhiraj Bhagwan Bhoir ... Applicants
Vs.
State of Maharashtra ... Respondent

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Mr. Vinayak Patil for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.
Mr. Prashant A. Subnawal, PSI, Wada Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 20th DECEMBER, 2018.**

P.C.

1. This is an application for bail in connection with CR No. I-246 of 2018 registered with Wada Police Station for the offence punishable under Section 323, 326, 452, 143, 147, 148, 149, 506, 427 of Indian Penal Code. The applicants were arrested on 1st October, 2018.

2. The case of the prosecution is that complainant is working at A.N.J Tanki Project at Shelte, Tal. Wada. On 28th September, 2018 at about 2.10 p.m. when the complainant and other workers were doing their work, group of about 15 to 20 persons came there. They were armed with weapons like iron rod, axe, iron stick. They

had abused the complainant and others and threatened stating that they were asked to stop the work and inspite of that they continue to do the work. The applicant No.2 had allegedly assaulted the complainant by iron rod on his legs and hands. The other accused has assaulted the complainant by slapping him. The applicant No.1 and others had assaulted Uddhav Ambekar by iron rod. The injured person had sustained injuries. The other accused also assaulted, the complainant and other witnesses. Witness Udhav was injured and he was taken to hospital. During the incident, he had lost his gold chain. FIR was lodged on 28th September, 2018.

3. Applicant had preferred an application for bail before the Sessions Court which is rejected by order dated 1st November, 2018.

4. Learned advocate for the applicant submits that applicants are in custody from the date of arrest. They are falsely implicated in this case. The injured person had not sustained any serious injury. Land was owned by the father of the applicant No.1 and the applicants are local villagers. It is submitted that the injuries sustained by the complainant and other are simple in nature. The offence under Section 326 of Indian Penal Code is not made out.

The incident had occurred on account of property dispute. Further custody of the applicant is not necessary.

5. Learned APP submitted that the applicant and others have been attributed specific role. The applicants have participated in the crime. The injured had sustained grievous injuries. Learned APP submits that injury certificate of Sachin Maheshwari and Santosh Karle reflects that injured Sachin Maheshwari had sustained injury by hard and blunt object in between two to four ribs on the left side which is grievous in nature. He had also sustained trauma region which is also grievous in nature. The other witness Santosh Karle had also sustained injury by sharp object which are grievous and simple injuries. It is submitted that there are eye witnesses to the incident.

6. Learned APP submitted that there are three criminal antecedents against the applicant No.2 and one case is registered against the applicant No.1. Learned advocate for the applicant further submitted that other cases were registered against the applicant No.1 after registration of the present case. It is also submitted that both the applicants were not attributed any role having assaulted Sachin Maheshwari. Role of assaulting other injured witnesses Santosh Karle is attributed to the applicant No.2.

It is the case of the prosecution that the applicant No.1 had assaulted Udhav by iron rod. However, the medical certificate is not on record.

7. On perusal of the First Information Report and the other documents produced by learned APP it is apparent that the role of assaulting Santosh Karle is attributed to applicant No.2. As far as applicant No.2 is concerned he had allegedly assaulted Udhav whose medical certificate is not on record. It is also noted that there are three cases registered against the applicant No.2. Investigation is in progress and chargesheet is yet to be filed. However, considering the aforesaid circumstances, at this stage, bail can be granted to the applicant No.1. No case for grant of bail is made out to applicant No.2. Hence, I pass the following order.

ORDER

- i. Applicant No.1 is directed to be released on bail in connection with C.R. No.I-246 of 2018 registered with Wada Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- ii. Applicant No.1 shall report the concerned police station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further orders;

- iii. Criminal Bail Application is rejected qua applicant No.2.
- iv. Applicant No.2 will be at liberty to prefer an application for bail before the appropriate Court. In the event, the applicant No.2 prefers application for bail after filing of chargesheet, the said application shall be dealt with in accordance with law and without being influenced by this order.
- v. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)