

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

BAIL APPLICATION NO. 3499 OF 2019

Rushikesh @ Gotya Satish @ Satyawan
Dhavale

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. V.V. Purwant a/w Rushikesh Kale, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the State-Respondent.

Mr. Ashish Sawant, Advocate for Original Complainant.

Mr. Rajkumar B. Kendre, (P.I.)- I.O. Tembhurni Police Station,
Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th December, 2019

PC :

1. This is an application for bail in connection with C.R. No. 460 of 2019 registered with Tembhurni Police Station, Solapur, for offences punishable under Sections 307, 341, 143, 147, 148, 149, 323, 504, 506, r/w 120(B) of Indian Penal code.

2. The Brief facts of the case are as follows :

The case of the prosecution is that the complainant Balasaheb Dhawale in his FIR dated 5th August, 2019 has alleged that on 4th August, 2019 he had visited his farm. While returning at about 6.30 p.m. the accused Sachin Dhawale obstructed him. Thereafter, the

other accused who were hiding came forward. Accused Aakash Dhawale, Vishal Patil, Annasaheb Dhawale, Rushikesh Dhawale, Satish Dhawale, Akshay Dhawale, Ganesh Dhawale, Adesh Dhawale armed with Sattur and Sickle. Vitthal Dhawale threatened the complainant and instigated others not to spare victim. At that time Akshay and Rushikesh (applicant) pulled him from his motorcycle. The complainant started running from the place of incident to save himself. Aakash assaulted him by sickle and gave blow on the head of the complainant. He sustained injury and started bleeding. He was chased by the accused with weapon and they were attempting to assault him. He managed to avoid the assault Sachin Dhavale obstructed him again and gave blow by sattur on his head. Annasaheb Dhavale, Hrishikesh @ Gotya Satish Dhavale assaulted him by kick blows. Sagar Dhavale and nephew Dattatray reached there. However, they were threatened by Ganesh Dhavale and Aadesh Dhavale. Thereafter, all the accused ran away from the place of incident. The complainant was treated in the hospital for the injuries sustained by him.

3. Learned advocate for the applicant submitted that false case has been registered against the applicant. The FIR has been registered on account of rivalry.

4. Learned advocate for the applicant further submitted that no specific overt act has been attributed to the applicant. The role of assaulting the complainant was attributed to the other accused. It is submitted that the injured had sustained three injuries. There is no recovery of weapon from the applicant. There are no criminal antecedents against the applicant.

5. Learned APP submitted that the offence is of serious in nature. The applicant had participated in the crime. He had acted with common object with the co-accused. The applicant had also tried to assault the complainant. He was armed with weapon.

6. Learned counsel for the complainant submitted that the applicant was acting in furtherance of common intention. He was instrumental in pulling the complainant from the motorcycle and pursuant to that the complainant was assaulted by the accused. The applicant was also armed with the weapon and all accused had intended to assault the complainant. It is submitted that the complainant had sustained serious injuries which is apparent from photographs. Hence, the application be rejected.

6. I have perused the documents. The prosecution case is that the accused No.1 had obstructed the complainant while passing on motorcycle. Applicant and other accused had pulled him down and

the co-accused had assaulted. The specific role of assaulting by weapon has been attributed to the co-accused. It is alleged that the applicant indeed try to assault the complainant but he managed to dodge and avoid the blow. The applicant then assaulted by kick blows. Apparently there are no criminal antecedents against the applicant. The investigation is completed and charge-sheet is filed. It was contended that the applicant is 19 years old boy and student. It is also submitted that the applicant is willing to stay out of the area and in the event he is granted bail, he would stay at the Indapur.

10. Considering the circumstances stated herein above, further detention of the applicant is not necessary. Bail can be granted on certain terms and conditions.

11. Hence, I pass the following order.

ORDER

- i) Bail Application No.3499 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 460 of 2019 registered with Tembhurni Police Sation, Solapur, on his furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

- iii) The applicant shall not enter within the jurisdiction of Tembhorni Police Station and shall stay at Indapur.
- iv) Applicant shall not tamper with the evidence and not to approach the complainant or any other witnesses.
- v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)