

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.66 OF 2019

1. Abhimanyu Samarbahadur Yadav,
Age 27 years, Occ.Agent, R/o.409, A-Wing,
Ekdant Apartment, Vijay Nagar,
Nallasopara (E), District Palghar.

2. Dhiraj Rajkumar Singh, Age 25 years,
Occ.Agent, R/o.106, Shiv Shakti CHS Ltd;
Central Park, Nallasopara (E), Dist.Palghar.

Applicants

versus

The State of Maharashtra

Respondent

Mr.aniket Nikam with Sunil Lahane, Vighanesh Kalgutkar I/by The
Juris Partners for applicants.

Mrs.A.A.Takalkar, APP, for State.

Mr.Pravin Abdagina, PSI, Kasturba Marg Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th February 2019

PC :

1. This is an application for bail in CR No.609 of 2018 registered with Kasturba Marg Police Station, Mumbai for offences under Sections 326, 323, 504 and 506 r/w 34 of Indian Penal Code.

2. The FIR was lodged on 7th December 2018 alleging that there was altercation between accused and complainant while they were proceeding by vehicle on the road which was followed by threats and assault. Applicant no.1 had allegedly assaulted injured by giving blows with hockey stick on his head and the complainant was also assaulted. Applicant no.2 is being attributed role of assaulting by fist blows. It is apparent that the complainant in the FIR has not named the assailants. However, supplementary statement was

recorded on 9th December 2018 in which it was stated that the complainant was called at Police Station and the arrested accused who were present at the police station were identified by him. Injury certificate of injured and the complainant indicate that the injured witnesses has suffered injury to his forearm and CLW of parietal region. The applicants are in custody from 9th December 2018. Learned counsel for applicant submitted that identification is faulty. The hockey stick recovered from applicant no.1 did not bear any blood stains. The victims were discharged from hospital within short span of time. Investigation is completed and charge sheet is filed.

3. Learned APP, however, submitted that specific overt act has been attributed to the applicant. The complainant had filed an affidavit before the Trial Court stating that he and the injured were not beaten by applicants and they have no objection if bail is granted to applicants. Thus accused are tampering with evidence.

4. The incident had occurred at the spur of moment. The complainant was allegedly assaulted by applicant no.1 by hockey stick. The applicant no.2 is attributed the role of assaulting by fist blows. There was no identification parade. Investigation is completed and charge sheet is filed. In the circumstances no further detention of the applicants is called for. Case for grant of bail is made out.

5. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.66 of 2019 is allowed and disposed off;

- (ii) The applicants are directed to be released on bail in connection with CR No.609 of 2018 registered with Kasturba Marg Police Station, Mumbai, on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall report Kasturba Marg Police Station once in a month on every first Saturday between 11 am and 1 pm;
- (iv) The applicants shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;
- (v) The applicants are permitted to furnish cash security in the sum of Rs.25,000/- each for a period of eight weeks.

(PRAKASH D. NAIK, J.)

MST