

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

BAIL APPLICATION NO.725 OF 2019

Akshay Santosh Bendre	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Mr.Kuldeep Patil for the applicant.
Mr. M.G. Patil, APP for respondent-State.

CORAM : P.N. DESHMUKH, J.
DATE : 11th April 2019

P.C.:

. Heard learned counsel for applicant and learned APP who on instructions with reference to earlier order dated 19th March 2019, submits that after incident as injured on his own got himself admitted in a private hospital of which injury certificate is on record on page 77, there is no injury certificate issued by Government hospital as injured was never referred to Government hospital.

2. Learned counsel for applicant submits that though name of applicant is in report lodged by injured on the basis of which offence is registered and as applicant is also involved by one eye-witness Baban, all accused persons are stated to have committed assault simultaneously by wooden rod, fist blows and kick blows and thus, there is nothing to

establish what injuries are caused by one particular co-accused. It is therefore, submitted that in injury report, though 5 grievous injuries are certified to have caused, considering the nature of injuries, they cannot be said to be grievous, more particularly when injured was not required indoor treatment at any point of time and has thus contended that in view of above evidence and as co-accused Shubham Dalvi who is similarly placed has been released on bail by trial Court, application be allowed. It is therefore contended that in the light of above facts, application be allowed even by restraining applicant from staying within territorial jurisdiction of Shirur, District Pune where complainant resides by passing suitable order.

3. Learned APP opposed application on the ground that there is direct evidence against applicant.

4. Perusal of report as well as statement of eye-witness named above substantiate submission advanced on behalf of applicant when injured has stated that on the date of incident at 8.15 p.m. when he was proceeding on motor cycle, applicant along with 2 other co-accused assaulted him on his head, hands by wooden rod and fiber rod. Similar is the statement of eye-witness Baban. Though injured has attributed role

of assault by applicant by wooden rod on his face and legs, injury report does not reveal any injury sustained by complainant on lower limbs. One injury on face is stated to be on upper lip, though one grievous injury is referred on front portion of right side of body as injured was not required to be admitted as indoor patient at any point of time prima facie it does not find to be fatal. Even otherwise, contents of report lodged by injured attributing role to applicant as aforesaid does not find corroborated by eye-witness Baban as according to his statement, applicant along with 2 other co-accused were simultaneously assaulting by wooden rod, fist blows and kick blows.

3. Considering nature of evidence as aforesaid and as applicant's bail appears to be rejected by trial Court considering previous enmity with complainant and thus holding that there is every possibility of his indulging into tampering evidence, particularly complainant, application is liable to be allowed by imposing conditions as per order below :-

ORDER

(i) Applicant in C.R. No.633 of 2018 registered by Shirur Police Station for offences punishable under Sections 307, 323, 324, 504, 506

read with 34 of IPC shall be released on bail on his executing P.R.

Bond in the sum of Rs.25,000/- with one surety in the like amount;

(ii) While on bail, applicant shall not enter within territorial jurisdiction of Shirur, District Pune.

(iii) While on bail, applicant shall mark his presence with police station within whose jurisdiction he resides on first day of each month pending trial and shall communicate his address to investigating at Shirur Police Station.

(iv) Application is allowed.

P.N. DESHMUKH, J.