

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

BAIL APPLICATION NO.994 OF 2019

Rahul Sanjay Kshirsagar Applicant

versus

The State of Maharashtra Respondent

.....

- Mr. Jayant J. Bardeskar, Advocates for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.201/2018 registered with Bibwewadi Police Station, Pune City under Sections 307, 452, 323, 427, 504 r/w. 34 of IPC, under Section 37(1) r/w. 135 of the Mumbai Police Act and under Section 25 of the Arms Act.

2. The FIR is lodged by victim Akshay Chavan on 20/8/2018. He has stated in his FIR that on 19/8/2018 at about 10.00 p.m. he was going out for buying butter. One Rakesh

Kondre entered in his house with three associates with sticks and sickle. He searched the house and told his associates that somebody who they were searching for was not in the house. While they were leaving, the informant scolded him for entering his house. At that time, Rakesh Kondre got angry and gave a blow with sickle on his head. Others abused him and then left the house. While going out, they caused damage to a few vehicles parked nearby. The investigation is carried out and the applicant is arrested on 25/8/2018. Since then, he is in custody.

3. Heard Mr. Jayant Bardeskar, Ld. Counsel for the Applicant and Mr. S. H. Yadav, Ld. APP for the State.

4. Mr. Bardeskar submitted that the FIR does not name the present applicant. There is only one simple injury caused to the informant. The offence under Section 307 of IPC is not made out. The culprits had not entered informant's house to cause injury to him. He submitted that the applicant is in custody over a long period and he prayed for release of the applicant on bail.

5. Ld. APP opposed grant of bail to the applicant as the offence is serious.

6. With the assistance of the Ld. Counsel, I have gone through the chargesheet attached to the application. There are statements of first informant, his wife Chaitali and mother Krishna. All of them have consistently narrated the same story as narrated in the FIR. Their supplementary statements are also recorded wherein they have stated that police had shown arrested accused to them and the present applicant was one of the persons who had entered their house. I have also perused the injury certificate which shows only one injury to the informant and the dimension was 3 x 0.2 x 0.1 cm. The injury is described as simple injury. Thus entire material on record shows that offence under Section 307 of IPC is not made out. There was no intention to commit murder of the informant. There is no proper identification of the culprits because no test identification parade is held. Accused were shown to the witnesses in the police station. Injury caused is also simple in nature. In this view of the matter, considering the

fact that the applicant is in custody since 25/8/2018, I am inclined to grant bail to the present applicant. Hence, the following order.

ORDER

(i) The applicant is directed to be released on bail in connection with C.R. No.201/2018 registered with Bibwewadi Police Station, Pune City on his executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The application is disposed of.

(SARANG V. KOTWAL, J.)