

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1191 OF 2019

Vikas Vasant Bansode] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

CRIMINAL BAIL APPLICATION NO.1192 OF 2019

Sikandar Sunil Talbhandare] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

CRIMINAL BAIL APPLICATION NO.1274 OF 2019

Rohan Balu Talbhandare] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

CRIMINAL BAIL APPLICATION NO.1300 OF 2019

Pintu Suresh Talbhandare] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Jaydeep Mane, Advocate for the Applicants in BA No.1191/19 and BA No.1192/19.

Mr. Ujwal Agandsurve, Advocate for the Applicants in BA No.1274/19 and BA No.1300/19.

Mr. Prashant Jadhav, APP for the State/Respondent in BA No.1191/19 BA No.1192/19 and BA No.1274/19.

Mr. S.R. Agarkar, APP for the State/Respondent in BA No.1300/19.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 21 JUNE, 2019.

P. C. :-

1. All these applications are decided by this common order because they arise out of the same incident resulting in filing of the same FIR and the same charge-sheet. For convenience of the applicants, in these applications are referred to by their names.

2. BA No.1191/19 is filed by Vikas Vasant Bansode, BA No.1192/19 is filed by Sikandar Sunil Talbhandare, BA No.1274/19 is filed by Rohan Balu Talbhandare and BA No.1300/19 is filed by Pintu Suresh Talbhandare.

3. The FIR in this case is lodged on 05/12/2018. The applicant

Vikas was arrested on 09/12/2018, applicant Sikandar was arrested on 23/12/2018, applicants Rohan and Pintu were arrested on 08/12/2018 and since then they are in custody.

4. The FIR is lodged by one Suraj Gaikwad on 05/12/2018 at Jodbhavi Peth Police Station, Solapur City u/sec. 307, 397, 326, 324, 323, 336, 143, 147, 148, 149, 109 of I.P.C., under Section 4, 25 of the Indian Arms Act, under Section 135 of, 142 of the Maharashtra Police Act and under Section 7 of the Criminal law Amendment Act.

5. According to the first informant, on the previous day there was quarrel between the applicant Vikas and his group on one hand and the first informant's group on the other on the ground that Vikas had misbehaved with a girl child. On the next day, at about 7.15 p.m., in the evening, more than 60 persons came near Rajratna Buddha Vihar where the first informant was present with his friends and was talking with them. The mob of these more than 60 persons were carrying weapons like swords, iron rods, sickles, sticks, stones etc. It is the case of the first informant that the mob started assaulting first informant's group with their weapons. The FIR mentions names of 55 persons.

The names of the applicant Vikas, Rohan and Pintu are mentioned. The name of other applicant Sikandar was mentioned in the first informant's supplementary statement recorded subsequently. It is further mentioned in the FIR that one Nagesh Kamble assaulted Anand Gaikwad with sword on his head. Santosh Talbhandare and Pintu assaulted the first informant with iron rod on his hand, head, shoulders and legs. The first informant's mother Rukmini was assaulted by the applicant Rohan with iron rod on her head. The others namely Ritesh, Pramod and Raj were also assaulted. The police arrived at the spot and thereafter all the assailants ran away from the spot. The injured were taken for medical treatment and thereafter the FIR was registered.

6. As mentioned earlier, the present applicants and others were arrested. The investigation is already over and the charge-sheet is filed. The charge-sheet contains statements of injured eye witnesses Rukmini, Anand, Pramod, Ritesh and Raj. The statements of other witnesses namely Kiran, Nitin and others were also recorded. Their statements in respect of the actual assault committed by the assailants is almost consistent.

7. Heard Mr. Jaydeep Mane and Mr. Ujwal Agandsurve, Ld. Counsel for the Applicants and Mr.Prashant Jadhav and Mr. S.R. Agarkar, Ld. APP for the State/Respondent.

8. Ld. Counsel for the applicants submitted that they have not committed any offence. They are falsely implicated because of the previous enmity. In any case, they have not committed any serious offence and they could not be prosecuted for the commission of grave offence of Section 307 of I.P.C.

9. As against that Ld. APP submitted that the offence is serious. The first informant and his group was assaulted by overpowering them with weapons and therefore they did not deserve any sympathy.

10. I have perused the injury certificates. Out of the injured only Anand has suffered grievous injuries. Anand has suffered four injuries on head and they were grievous. Anand Gaikwad as on today is out of danger and the offence has not escalated any further. The other injured Rukminibai had suffered one head injury which is described as a simple injury. The injured Ritesh has suffered minor contusions.

The injured Pramod has suffered minor abrasions. The first informant Suraj had suffered six injuries out of which only one injury on his left little finger was described as a grievous injury.

11. Considering, the nature of injuries suffered by the injured, it appears that only Anand had suffered serious injuries and these injuries are attributed specifically to Nagesh Kamble. None of the present applicants are given any role of assault on Anand. Anand is the only person who had suffered some serious injuries. Though the first informant has suffered fracture in his left little finger, that role is attributed to Pintu. Even that offence has not escalated any further and it cannot be said that Pintu's act attracts the offence u/sec. 307 of I.P.C. At the highest it can attract Section 326 of I.P.C.

12. Though the allegations are that the mob had common object of committing assault and though Section 149 of I.P.C. is applied ; at this stage, it is apparent that the present applicants and others except Nagesh Kamble have not caused any serious damage to the group of first informant. If actually any of the members of that group had any common intention or common object of committing murder of any the

injured or member of their group ; they had ample opportunity to beat them. There is scope to believe at this stage that the applicants and others did not share common object with Nagesh of committing offence u/sec. 307 of I.P.C.

13. The investigation in this offence is already over. The applicants are in custody since past many months. No purpose would be served by keeping them in custody. In this background, I am inclined to grant bail to all the applicants.

14. Ld. APP submits that the applicants may be directed to remain outside Solapur City for a reasonable period. Looking at the manner in which the mob of about 60 persons had gone at the spot, the request made by Ld. APP sounds reasonable. Hence, the following order.

ORDER

1. The Applicants are directed to be released on bail in connection with C.R.No.748/2018 registered with Jodbhavi Peth Police Station, Solapur City on their executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties

each in the like amount.

2. The applicants shall not enter the city of Solapur for a period of six months from today except for attending the dates in the court.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)