

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1414 OF 2019**

Asif Shakil Mulla

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Vijay Killedar, Advocate for the Applicant.
- Smt. J. S. Lohokare, APP for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : 9th SEPTEMBER, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with CR No. 19/18 registered at Miraj City Police Station, Sangli for offences under Sections 307 and 504 read with 34 of the IPC and under Section 4 read with Section 25 of Indian Arms Act. The applicant is arrested on 13th November 2018 and since then he is in custody. The investigation is over and charge-sheet is already filed.

2. The FIR is lodged on 12th January 2018 by one Rizwan Shikalgar. He has stated that the present applicant and Asif Kalyani were his friends, but they were suspecting that the first informant was spreading rumours against the applicant and Asif Kalyani. It is his case, that, on this suspicion, applicant and his co-

accused had threatened him. It is further mentioned in the FIR that on 12th January 2018, at around 10.00 a.m. while he was going back to his house, he met the applicant and other accused Asif Kalyani. All of them went together to one hotel and consumed alcohol. At around 3.30 p.m. they went to have their lunch on the terrace of Jawahar Highschool. It is further mentioned that the applicant suggested to him that they would commit murder of one Javed. The informant refused. The applicant got angry. He left the meal unfinished and went away. He came back within a short time carrying a sickle. He assaulted the informant on his left shoulder. The applicant again tried to give one more blow. The informant warded off that blow. He was trying to escape but other accused Asif Kalyani held him from behind and again the applicant gave a blow on his head. After that the informant pushed them and ran from the spot. On the street, other people helped him and removed him to civil hospital, Miraj, where he was admitted. After that, he was treated and then he lodged this FIR.

3. Heard, Mr. Killedar, learned counsel for the applicant as well as Smt. Lohokare, learned APP for the State.

4. Learned counsel for the applicant submitted that the applicant is in custody since 13th November 2018. The offence has not escalated any further. The injury certificate shows that the informant had suffered three injuries, which are described as simple injuries. He submitted that Section 307 of the IPC is not attracted and the applicant deserves to be released on bail.

5. Learned APP opposed this application and added that the applicant has criminal antecedents. The informant had criminal antecedents but that was no reason to commit assault on the informant. She further added that a deadly weapon was used and therefore no sympathy can be shown to the applicant.

6. I have considered all these submissions. With their assistance, I have gone through the investigation papers included in the charge-sheet. The informant has suffered three injuries. Two of them are CLWs and one is abrasion. All the injuries are described as simple injuries. At this stage, there is no reason to doubt the version of the informant. He himself is the injured witness. There are witnesses like Ramesh Ambi, who had seen the informant and both the accused running away from the high

school. The other witness like Sattar Sayyad had inquired with the injured in respect of the incident. At that time the informant had narrated the same story. Weapon is recovered at the incident of the present applicant. Therefore, the incident cannot be denied at this stage. However, the fact remains that the injuries inflicted on the informant are simple injuries. Therefore, whether section 307 of the IPC is attracted or not will have to be decided during the trial. However, at this stage, considering the nature of injuries, I am inclined to grant bail to the applicant. However, considering the antecedents, suitable conditions will have to be imposed on him. Hence, the following order:-

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R. No.19/18 registered at Miraj City Police Station, Sangli, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station every fortnight for a period of one year.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)