

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1609 OF 2019

Islam Sayed Khan (Pathan) & Ors.	... Applicants
Versus	
The State of Maharashtra	... Respondent

Mr. S.B. Shetye, Advocate for the Applicants.
Mr. S.H. Yadavs, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 4th July, 2019.

P. C. :-

1. The applicants are seeking bail in connection with CR No. 179/18 registered with Yeola City Police Station, District Nasik under Sections 307, 323, 324, 504, 506, 143, 147, 148 and 149 of the IPC and under Section 4 read with 25 of the Arms Act. The offence is registered at the instance of the first informant Shahid Ansari.
2. He has stated in his FIR that there was previous enmity between the applicant's group and the informant's group. On 18th November 2018 at 4.15 p.m. he was informed that his uncle Majid Saeed was assaulted by accused and others. He was assaulted near Shamshuddin garage. Therefore, he went there and saw the present applicants with

sword, one Pappu Langda with wooden stick and other four assailants with pipes and swords, were assaulting his uncle Majid. One Bablu was also having a sword. When the first informant and his mother tried to intervene, the informant was assaulted by the accused with their weapons. As the people from the locality gathered, the assailants ran away. The injured and the informant were taken for medical treatment and thereafter, FIR was lodged. The applicant no. 3 was arrested on 19th December 2018. The applicant nos. 1 and 2 were arrested on 22nd December 2018.

3. The investigation in this case is over and the chargesheet is already filed. The copy of the chargesheet is annexed with the present application.

4. Heard, Mr. Sachindra Shetye, learned counsel for the applicant and Mr. Yadav, learned APP for the State.

5. Mr. Shetye submitted that the injuries suffered by the injured were not life threatening injuries. He submitted that the assault is attributed to all the assailants in a general way and no specific role is attributed to the applicants. He submitted that applicants are in custody for a long period and no purpose will be served by keeping them in further custody during the pendency of the trial. Learned APP

submitted that the offence is serious. There was enmity between two groups and there is likelihood of the repetition of a similar offence.

6. With the assistance of both the learned counsel, I have gone through the entire chargesheet. The chargesheet contains the statement of the injured eyewitnesses Majid as well as one Joharan. There is statement of another eyewitness Shamshuddin Khan. The statements of the eyewitnesses are consistent. They more or less tell the same story. The injured eyewitness Majid had stated that at the time of incident the present applicants, including the applicant no. 3 and others, with the aforementioned weapons, assaulted him on his head. I have perused the injury certificates. The injuries are suffered by two victims, the first informant and his uncle. The first informant had suffered two blunt traumas on his right forearm and upperarm. Both of them are simple injuries. His uncle has suffered four injuries. One injury is described as fracture of middle and index finger of the left hand. There is one head injury but it is described as a simple injury. Other injuries are abrasions and CLWs. Those injuries are also described as simple injuries. An iron pipe was recovered at the instance of applicant no.1. A wooden stick was recovered from applicant no. 2. The iron pipe was recovered from applicant no. 3. The

applicant no. 3's name was not mentioned in the FIR though the injured eyewitnesses have named him.

7. The applicants are in custody since they were arrested. The offence has not escalated any further. The offence does not appear to be under Section 307 of the IPC. The applicants and other assailants had outnumbered the first informant's group and it was very easy for them to cause much more damage than what was actually caused. Thus the intention to commit murder is not made out from the allegations. Investigation is already over. Further custody of the applicants is not required. Hence, the following order:-

ORDER

1. The Applicants are directed to be released on bail, in connection with C.R. No.179/18 registered with Yeola City Police Station, Dist. Nasik, on their furnishing PR 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. Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)