

Anand

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

BAIL APPLICATION NO. 1709 OF 2019

1. Moin Nisar Sayyed .Applicants
2. Shabbir Abdul Kadar Sayyed

Vs.

The State of Maharashtra .Respondent

Mr. Silvin Y. Kale, Advocate, for the Applicants
Mrs. P. P. Shinde, APP, for the Respondent – State
Ms Trupti K. Patil, PSI, Wadala Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 31.07.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C. R. No. 86 of 2019 registered with the Wadala Police Station, Mumbai, for the alleged offences punishable under Sections 307, 323, 506(2) r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicants states that the only allegation against the Applicants is that they assaulted the Complainant with fist blows. He submits that a perusal of the prosecution case, as

disclosed in the FIR shows that after the Applicants assaulted the Complainant, the other co-accused came on the spot and one of them pulled out a koyta and assaulted the Complainant's uncle with a koyta on his head. He submits that the Applicants cannot be attributed with the knowledge that the co-accused will assault the Complainant's uncle with a koyta.

4. Learned APP has produced the Injury Certificate of the Complainant – Moin Shaikh. Learned APP submits that the injuries sustained by the Complainant are simple in nature. Learned APP also does not dispute the role of the Applicants that the Applicants assaulted the Complainant with fist blows only.

5. Perused the papers. According to the Complainant – Moin Shaikh, the incident took place on 19.05.2019 at about 6.30 p. m. According to the Complainant, there was an altercation between Moin i. e. the Applicant No. 1 – Moin Sayyed and the Complainant. According to the Complainant, when he asked Moin Sayyed what had happened, Moin Sayyed i. e. the Applicant No. 1 asked him not to interfere and pushed him and thereafter, gave him fist blows. It appears that subsequently, other co-accused came and that the co-accused

assaulted the Complainant's uncle with koyta which was kept at the spot. The Injury Certificate of Moin Shaikh shows that he has sustained two simple injuries; one on the right ear and one on the left ear i. e. laceration and abrasion. Investigation is almost complete.

6. Having regard to the role played by the Applicants, the Application is allowed and the Applicants are enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicants be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 10,000/- each** with one or two sureties in the like amount;

(ii) The Applicants shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between 10.00 a. m. and 11.00 a. m. for a period of six months;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the

Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicants to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The Applicants shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of their release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicants' bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)