

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

BAIL APPLICATION NO.1910 OF 2019

Bapu Laxman Gole .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr.Satyavrat Joshi, Advocate for the Applicant.
Mrs.A.A. Takalkar, APP for the Respondent – State.
ASI Mujavar, Poud Police Station, Pune, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 20, 2019.

P.C. :

The applicant is seeking bail in connection with C.R.No.587 of 2018, registered with Poud Police Station, Pune, for the offences punishable under Section 307, 325, 324 and 120 B read with 34 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged on 15th October, 2018. It is alleged that on 13th October, 2018, at about 2:45 p.m, the injured had gone to her farm for grazing cattle. One person wearing mask inquired with her about the residence of Rohidas Marne. The injured asked him as to which Rohidas Marne he is looking for. The accused told her he is from Marnewadi. He also inquired about road leading to Gawaliwada. When the injured

turned her back, unknown person assaulted her from her back side by giving blow of stick on her head. The assailants gave several blows on her head, face and other parts of body. She was unconscious. After regaining consciousness, she gave a call to her brother. She was taken to hospital and treated for the injuries. She had sustained stitches on her head and fracture. FIR was lodged against unknown person wearing mask, having assaulted her by stick. Supplementary statement of the complainant/injured was recorded on 18th November, 2018. In the supplementary statement, the victim has stated that there was illicit relationship between one Pallavi and applicant. She was aware about the same. She had seen him leaving house of Pallavi. Thus, the accused had enmity with the injured. Two to three days ago she saw accused passing through the lane of her house by Scorpio vehicle. She had received call on her cell phone from Pallavi Salunke. She further stated that she had given description of a person who had assaulted her. On account of mental condition she could not give detailed description. She stated that the person who had assaulted her was Bapu Gole (applicant). Pallavi had received a voice call on WhatsApp after the incident.

2 Applicant was arrested. On completing investigation, charge-sheet is filed. Learned counsel for the applicant submitted

that the applicant has been falsely implicated in this case. It is submitted that there is no cogent evidence against the applicant. The circumstances which are relied upon by the prosecution against him is that the cell phone of the applicant and the mask has been recovered. However, the mask have not been identified. The reference to mask is made in the FIR. It is submitted that if the complainant was unknown to applicant and that it was the case of the complainant that the applicant had animosity with her, she would not have missed to mention the name of the applicant as a assailant while lodging the FIR. Merely on the basis of the relationship of the applicant with one Pallavi as alleged by the complainant and the alleged calls exchanged between them, no inference can be drawn that the applicant had assaulted the victim. It is also not clear as to how she is realized that applicant was the assailant wherein it was her case that the applicant was wearing mask. Learned counsel for the applicant on instructions submits that there are no criminal antecedent against the applicant.

3 Learned APP submitted that the supplementary statement implicates the applicant. The recovery of mask and cell phone show the involvement of the applicant. CDR record indicate that there were calls between the applicant and Pallavi.

4 The entire case of the prosecution rests on the identification of the assailant. The case of the victim is that the accused had grudge against her. She has seen applicant passing through lane. In spite of that in the complaint she has stated that assailant was wearing a mask. It is pertinent to note that the victim had conversation with the assailant and in spite of that she could not mention that the applicant was the person who assaulted her. Supplementary statement was recorded one month thereafter, she stated that the applicant was the person who had assaulted and that there were differences between them as she was knowing about her relationship with Pallavi. The injured had sustained several injuries and she was undergoing treatment. However, on account of suspicion relating to identify, bail can be granted to the applicant on certain terms and conditions.

5 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.1910 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.587 of 2018, registered with Poud Police Station, Pune, on

his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall attend Shivajnagar Police Station, Pune, once in a month on first Saturday of the month between 10:00 a.m. to 12:00 noon, till further orders;
- (iv) Applicant shall stay out of village Ambegaon Taluka-Mulshi, District-Pune, till the conclusion of the trial;
- (v) Applicant shall not tried to approach the injured or any other witness;
- (iv) Bail Application No.1910 of 2019, is disposed of.

(PRAKASH D. NAIK, J.)