

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

BAIL APPLICATION NO.2223 OF 2019

Mayur Mahadev Ghone

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Priyal G. Sarda, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.
- Mr. D. G. Bhakre, Daund Police Station present.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.209/2018 registered at Daund Police Station, Pune under Sections 143, 147, 148, 149, 307, 324, 504 and 506 of IPC and under Section 4 and 25 of the Indian Arms Act.

2. The FIR is lodged on 1/4/2018 at about 2.28 p.m. in respect of an incident dated 31/3/2018. The applicant is arrested on 11/4/2018 and since then, he is in custody.

3. The FIR is lodged by one Tushar Jathar. He has stated in his FIR that the first informant and one Amit Jathar were sitting with their friends in front of Dr. Bidwe's Hospital. At that time, one Ajay Ghone came there and slapped him. He abused Amit. The informant and his friends were inquiring with Amit, at that time, at around 10.15 p.m., 8 to 10 boys came there. Present applicant was one of them. He was carrying a sword. Others were carrying wooden sticks, iron pipes etc. All of them started abusing and assaulting the informant and his friends. It is mentioned in the FIR that applicant assaulted Shashikant on his head. The co-accused Ajay Ghone assaulted the first informant on his forehead. He also assaulted Shashikant on his both legs by sword. The informant's group was assaulted by the applicant's associates with their weapons. Thereafter, the applicant and his associates left the spot. The informant and his friends were then admitted in the hospital. On such allegations, the FIR was lodged.

4. The investigation is over and the chargesheet is already filed. The chargesheet contains medical papers in respect of

injuries suffered by four witnesses including the first informant. The injured Shashikant Jathar had suffered compound fracture on the right side. He had also suffered head injury i.e. injury which is attributed to the act of the present applicant. It was a sharp cut injury. The other injuries were also in the nature of fracture attributed to co-accused Ajay Ghone. Amit Jathar sustained compound fracture injury on left side. The injury was grievous in nature. The informant Tushar sustained sharp cut injury of size 10 x 1 cm bone deep over left parietal region and it was described as simple in nature. There are statements of eye witnesses namely Shashikant Jathar, Amit Jathar and Akshay Jathar. There are other 3 to 4 witnesses. All of them have narrated the same story as mentioned in the FIR. The role attributed to the present applicant is assault with sword on Shashikant's head as mentioned above. The incident is sufficiently corroborated by the medical evidence.

5. Heard Mr. Priyal Sarada, Ld. Counsel for the Applicant and Mr. Prashant Jadhav, Ld. APP for the State.

6. Mr. Sarda submitted that the applicant is arrested on 11/4/2018 and his further custody is not necessary. Co-accused Ajay Ghone is released on bail pursuant to the order dated 24/7/2019 passed by this Court in Criminal Bail Application No.464/2019. He therefore submitted that on the principles of parity the applicant also deserves to be released on bail.

7. As against these submission, Ld. APP submitted that the offence is serious and the applicant does not deserve to be released on bail. The applicant is attributed a specific role of assault by sword on Shashikant's head.

8. I have considered these submission. The applicant is in custody for more than a year. The chargesheet is already filed. The ground of parity is available to him as co-accused Ajay Ghone is released on bail. Co-accused Ajay had caused more serious injuries to Shashikant to whom the applicant had allegedly given blow on head. Shashikant had suffered fracture of his leg and hand at the hands of co-accused Ajay and he is already on bail.

Therefore, even the present applicant deserves the same treatment. The applicant has not caused any life threatening injury. The applicant and his associates were armed with weapon and they had ample opportunity to cause life threatening injury if they had intention to cause murder of the any of the eye witnesses. However, applicability of Section 307 of IPC can be decided during the trial. At this stage, the applicant has sufficiently made out a case for his release on bail during the pendency of trial. Hence, the following order.

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R. No.209/2018 registered at Daund Police Station, Pune, on his executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The applicant shall attend concerned police station on every Sunday between 3.00 p.m. to 4.00 p.m. till conclusion of the trial.

(iii) The application is disposed of.

(SARANG V. KOTWAL, J.)