

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2254 OF 2019
WITH
INTERIM APPLICATION NO.1 OF 2019

Deepak Janu Bhure, Age 53 years,
Occ.Farming, R/o.At Talavali, Tal.Alibag,
Dist.Raigad (presently in Talegaon Prison)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Prakash V. Vare for applicant.

Smt.Geeta P. Mulekar, APP, for State.

Mr.Prashant Raul for intervenor.

Mr.H.S.Hinge, PSI, Revdanda Police Station, is present.

CORAM : PRAKASH D. NAIK, J.

DATE : 10th December 2019

PC :

1. The applicant is arrested on 10th June 2018 in connection with CR No.48 of 2018 registered with Revdanda Police Station for offences under Sections 302, 307, 325, 324, 323, 506, 143, 147, 148, 149 of Indian Penal Code r/w Section 37(1)(3) and 135 of Maharashtra Police Act.

2. The prosecution case is that on 7th June 2018 at about 10.15 pm, the complainant was proceeding towards the house of his aunt on his motorcycle when he saw Naresh Mali, Dipak Bhure (applicant), Narayan Bhure, Akshay Bhure, Santosh Dashrath Bhure, Dashrath Ragho Bhure, Sandip Bhure, Narendra Bhure, Harischandra Mali and Dashrath Balu Bhure standing on the road. On seeing the

complainant, they whispered amongst themselves and came towards complainant. Naresh Mali assaulted him by wooden log on his face. He managed to run away. He informed the incident to his uncle Prakash Gaikar on phone. Prakash Gaikar and grandfather Dharma Gaikar visited his house. Thereafter the complainant, his grandfather, uncle, mother and sister-in-law went to question the accused about the assault on the complainant. Without allowing them to speak, Naresh Mali assaulted Prakash Gaikar by wooden log on left side of his head. At the same time Dipak Bhure, Narayan Bhure, Naresh Mali, Narendra Bhure, Santosh Bhure, Harishchandra Mali assaulted the complainant on his hand and waist by wooden log. Dashrath Balu Bhure, Dashrath Raghu Bhure, Sandip Bhure assaulted the grandfather of complainant Dharma Gaikar and his uncle Prakash Gaikar by wooden logs. The uncle and grandfather of complainant sustained injuries and they fell down. The complainant managed to run away from the place of incident and went to the house of his aunt. He informed the incident to his aunt. She went to the spot. Complainant's cousin Aniket was also in the house. At that time Dipak Bhure, Naresh Mali and Narayan Bhure chased complainant with wooden logs. Since uncle and grandfather of complainant were injured, they were taken to the hospital by his uncle Vasant Bhure. The aforesaid three persons pulled him and assaulted him by wooden log. Pursuant to that, the FIR was lodged on 8th June 2018 and the offence was registered.

3. During the course of investigation statements of various witnesses were recorded. The injured was treated in the hospital. The uncle of the complainant Prakash Gaikar had succumbed to the injury. On completing investigation charge sheet is filed.

4. Learned advocate for applicant submitted that the role assigned to the applicant is of assaulting the complainant by wooden log and uncle of complainant while taking injured to car. The applicant had not assaulted the deceased. It is submitted that the accused Narayan Bhure who was similarly placed, has been granted bail by the Sessions Court. It is further submitted that other accused viz Narendra Bhure, Harishchandra Mali, Dashrath Balu Bhure, Dashrath Ragho Bhure were granted bail by the Sessions Court. The co-accused Akshay Bhure has been granted bail by this Court. It is submitted that although some cases were registered against him in the past, the same have resulted in acquittal and except present case, no other case is pending against him. The applicant is claiming bail on ground of parity. The injured persons to whom the applicant is alleged to have been assaulted, are out of danger. The applicant is in custody from the date of his arrest.

5. Learned APP submitted that the offence is of serious nature. All the accused were armed with weapons and they have assaulted the complainant, deceased Prakash Gaikar and other persons. In all three persons were injured at the hands of applicant namely Dharma, Vasant and Umesh. Learned APP also pointed out the injury certificate of injured person Umesh. He had sustained three grievous injuries. Dharma had sustained three grievous injuries and Vasant had sustained simple injury. It is further submitted that in the past the applicant was involved in several cases, a list of which is submitted through report submitted by Police. However, the report itself indicates that all ten cases have resulted in acquittal. Amongst them, seven cases were under Prohibition Act and three cases were

under the provisions of IPC. Except present case no other case is pending against the applicant. Learned APP further submitted that there are six eye witnesses to the incident and there is recovery of wooden log from the possession of applicant. One of the witness has forwarded letter to Police that he is apprehending danger at the hands of present applicant.

6. Learned counsel for intervenor reiterated the submissions of learned APP. He submitted that the offence is of serious nature. Three persons were assaulted by the applicant. There are eye witnesses to the incident. The accused are residing in the neighbourhood. In the event bail is granted, there is likelihood of danger to the life of witnesses.

7. I have perused the charge sheet. On 7th June 2018 at about 10.15 pm there was incident of assault to the complainant Umesh Patil by accused. He narrated the incident to his family members. Pursuant to that his grandfather, uncle Prakash Gaikar (deceased) and others went to the house of accused to question them as to why they assaulted Umesh. At that time all the accused had assaulted the deceased and other injured persons. The role of assaulting the deceased Prakash Gaikar was specifically attributed to Naresh Mali. It is also alleged that other accused Dasharath Balu Bhure, Dashrath Ragho Bhure, Sandeep Dashrath Bhure also assaulted Dharma and Prakash Gaikar by wooden log. Thus, the present incident had occurred when the injured persons had visited the house of accused to question the accused about previous incident. It is pertinent to note that the accused Narendra Bhure, Harishchandra Mali, Dasharath Ragho Bhure, Dashrath Balu Bhure and Sandeep Bhure

were granted bail. Narayan Bhure is granted bail. Learned APP, however, submitted that the said accused were granted bail on account of their old age. It is relevant to note that Narayan Bhure and others who is attributed identical role as that of applicant, has been granted bail by Sessions Court. The accused who had assaulted complainant with applicant and accused who had assaulted Prakash and "Dharma Gaikar by wooden logs jointly were granted bail (Dashrath Balu Bhure, Dashrath Ragho Bhure). The applicant was not attributed role of assaulting deceased. Learned APP submitted that applicant had also assaulted Vasant Bhure. There is no other case pending against applicant. One of the accused has been granted bail by this Court. However, the only role that was assigned to him was that he was present at the scene of offence and he did not participate in the crime. The other cases registered against the applicant have resulted in acquittal.

8. Considering the aforesaid circumstances case for grant of bail is made out. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.2254 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.48 of 2018 registered with Revdanda Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall stay out of jurisdiction of Revdanda Police Station till conclusion of trial;
- (iv) The applicant shall furnish address of the place of residence

where he would stay after release on bail, to the Investigating Officer;

(v) The applicant shall attend nearest Police Station once in a month on every first Saturday between 10 am and 12 noon till conclusion of trial;

(vi) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;

(vii) Interim Application No.1 of 2019 stands disposed of.

(PRAKASH D. NAIK, J.)

MST