

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2413 OF 2019

1. Balaku Hari Patil	]	
2. Ananda Hari Patil	]	... Applicants
Versus		
The State of Maharashtra	]	... Respondent

Mr. Chetan Patil a/w Mr. Mandar Bagkar, Advocate for the Applicants.
 Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 19th SEPTEMBER, 2019.

P. C. :-

1. The applicants are seeking their release on bail in connection with C.R.No.362/2018 registered with Shahuwadi Police Station, Kolhapur u/sec.307, 323, 324, 504, 506, 143, 144, 145, 147, 148 r/w 149 of I.P.C., u/sec. 135 of the Maharashtra Police Act and u/sec. 3 (1) r/w 25 of the Indian Arms Act.

2. The FIR is lodged by one Sagar Patil on 11/11/2018. He has stated that, his family was on inimical terms with the family of the applicant. They are belonging to two different political parties. The informant's candidates had won the Grampanchyat Election in 2018 and therefore the applicant's family members were angry with the

informant's group. On 11/11/2018 at about 8.30 a.m., one Sharad Hari Patil i.e. applicant's brother had dangerously driven his four wheeler in a group consisting of friends and family members of the informant's group. The crowd which had gathered at the spot pelted stones on Sharad's vehicle. Therefore, the present applicants who were his brothers and their associates, in all 15 accused came there with wooden sticks and weapons. They started moving around with their weapons threatening other group. The informant's cousin Sitaram was returning towards his house. The applicant's group confronted him. Applicant No.2 – Ananda tried to give a forceful blow with sword on Sitaram. He tried to evade that blow with his right hand. The blow landed near his right elbow and the hand was amputated. Applicant No.2 also assaulted one Rukmini Lad with sword. The informant's cousins were trying to run away from the spot. But the applicants followed them and assaulted them. In the incident informant's cousin Subhash Patil and Tanaji Patil also received injuries. The informant and others were trying to remove sword in the hands of Applicant No.1 when the informant suffered injuries. The injured were removed to hospital and thereafter this FIR was lodged against 19 accused from the applicant's group.

3. Heard Mr. Chetan Patil, Ld. Counsel for the Applicant and Smt.A.A. Takalkar, Ld. APP for the State/Respondent. With their assistance, I have perused the entire charge-sheet consisting of statement of eye witnesses and the injury certificates in respect of injuries suffered by the informant's group members.

4. Mr. Patil submitted that, except this two applicants, all the other accused are released on bail. He submitted that, Applicant No.1 – Balaku Patil is not attributed any specific role of causing any specific grievous hurt to anybody. He submitted that, though there are allegations against Applicant No.2 of giving forceful blow with sword, he himself was grievously injured. In that respect a cross FIR vide C.R. No.363/2018 was lodged at the same police station under similar sections. He therefore submitted that, it was a free fight between two groups. He submitted that, in view of the cross complaint there is a strong possibility that, the applicants are falsely implicated.

5. Ld. APP opposed these submissions and relied on the statement of eye witnesses and the injury certificates. She specifically emphasized the fact that, the injured Sitaram had lost his right hand.

She therefore submitted that, the applicants should not be granted bail.

6. I have considered these submissions. The charge-sheet contains statement of eye witnesses. There are independent eye witnesses in the form of Laxmi Pawar and Savitri Patil. However, they have described the incident generally. They have not described in detail roles played by the applicants and other accused. There are important statements of Sandesh Patil, Tanaji Patil and Rukmini Lad. Sandesh Patil has specifically stated that, Applicant No.1 tried to give a blow to Subhash and while avoiding that blow Subhash had suffered injury on his left palm and his middle finger was amputated. Applicant No.2 ascribed the role of assaulting Subhash and Tanaji with sword.

7. Witness Tanaji Shivaji Patil has described that, Applicant No.2 had gave a blow on Sitaram's hand. While saving himself, that blow landed on Sitaram's right hand due to which his hand was amputated. Rukmini Lad has given similar statement.

8. I have perused injury certificates. The injured Subhash Patil had suffered 7 cm long incised wound on the scalp and incised wound over

base of right middle finger. The injuries were grievous. Rukmini Lad has suffered simply injury on her hand. Sitaram had suffered serious injuries to his right hand which was amputated from below his elbow.

9. As pointed out by Mr. Patil that, there was a cross case in which the Applicant No.2 – Ananda had suffered grievous injuries. The medical certificate annexed to this application shows that, he had suffered two grievous injuries on his hand. Applicant No.1 – Balaku had suffered one grievous injury on his left hand of the dimensions 5 cm x 2 cm x 1 cm. Thus, it appears that, there was a free fight between two groups. However, a serious role is attributed to Applicant No.2 – Ananda Patil and the witnesses have consistently stated that, because of his forceful blow, injured Sitaram had suffered amputation of his right hand. Considering the manner of assault, I am not inclined to grant bail to Applicant No.2 – Ananda Patil.

10. As far as Applicant No.1 – Balaku Patil is concerned, the consistent role attributed to him is that, he had assaulted injured Subhash and the blow given by him had landed on Subhash's left palm. His middle finger was severely damaged. However, the offence did not escalate any further and no life threatening injury was caused

to him. Therefore, considering the fact that, the other accused are granted bail, the role of the Applicant No.1 can be separated from that of Applicant No.2. However, the Trial Court shall independently decide the question of common object shared by all the members of the unlawful assembly. The observations in this order shall not come in the way of Trial Court deciding the trial on its own merits. Considering, the above discussion I am inclined to grant bail to Applicant No.1. Hence, the following order.

ORDER

1. The Application of Applicant No.2 - Ananda Hari Patil is rejected.
2. The Applicant No.1 - Balaku Hari Patil is directed to be released on bail in connection with C.R.No.362/2018 registered with Shahuwadi Police Station, Kolhapur, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)