

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

CRIMINAL BAIL APPLICATION NO. 2478 OF 2019

Bharat Appasaheb Yadav & Ors.

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Aniket Nikam a/w. Abhay Jadhav i/b. Amit Yadav, for Applicants.

Mr. Prashant Jadhav, APP for the State/Respondent.

Mr. D. J. Kumbhar, PSI, Barshi Taluka Police station, Solapur, present.

CORAM :SARANG V. KOTWAL, J.

DATE :23rd SEPTEMBER, 2019

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No. 147 of 2019 registered with Barshi Taluka Police Station, Solapur, under sections 143, 147, 148, 326, 324, 504 and 506 r/w. 149 of the Indian Penal Code and U/s.135 of the Maharashtra Police Act.

2. The applicants are arrested on 30/07/2019 and since

then they are in custody. Learned APP makes a statement that the investigation is almost over and the charge-sheet will be filed shortly.

3. The FIR is lodged by one Satish Yadav on 10/07/2019. He has stated that on 09/07/2019 at about 8.00p.m. the applicant No.1 abused the first informant Satish when he was returning home. At 9.15p.m. the applicant No.1 came to the informant's house with the other applicants and his other relatives. The applicant No.1 assaulted the informant Satish on his back. Others started assaulting the informant's group with their respective weapons. It is alleged that the applicant Nos.2 and 3 assaulted Balaji Yadav on his head. Apart from the roles attributed to the applicants, it is further mentioned that Ganesh assaulted the informant with sword on his head. Samadhan and Vitthal assaulted the informant's elder brother Suresh with a knife and sword on his head and back. Dhanaji assaulted the informant on his left hand and left leg. He also assaulted Chandrasen on his head and ribs. All of them suffered injuries and thereafter they

were removed to Hiremath Hospital, Barshi, where they were treated. After that, FIR is lodged.

4. I have heard Shri. Aniket Nikam, learned counsel for the applicant and Shri. Prashant Jadhav, learned APP for the State.

5. Shri. Nikam submitted that the roles attributed to the present applicants are minor compared to the role of the other accused. They have not caused serious injuries to the injured. He submitted that there is a cross case and cross FIR lodged against the opposite group and, therefore, there is possibility of false implication. Shri. Jadhav, Learned APP relied on the investigation papers and invited my attention to the medical certificates. He submitted that since Section 149 of the IPC is applied, all the accused including the present applicants are equally responsible for the injuries suffered by the injured persons.

6. I have considered the injury certificates. Suresh had suffered one grievous injury on his head and two simple injuries

on his back. Satish had suffered four simple injuries on his head and back, however, he had suffered fracture of one finger of his left hand. Balaji had suffered four injuries and Chandrasen had suffered two simple injuries. The statement in the FIR is supported by the statements given by other injured witnesses namely Suresh, Balaji and Chandrasen. They have corroborated the FIR in all respects. Thus, the role attributed to the present applicant shows that they had caused only simple injuries. Though, it is true that Section 149 of the IPC is applied, the question whether all the accused acted in furtherance of common object will have to be decided during the trial. At this stage, only for the consideration of bail, the roles of the present applicants can be differentiated. Though, they were carrying weapons which could cause serious injuries, their role is of causing simple injuries. Taking this fact into consideration and also taking into consideration there is cross FIR, I am inclined to grant bail to the applicants.

7. Hence, the following order :

ORDER

- (i) In connection with C.R. No. 147 of 2019 registered with Barshi Taluka Police Station, Solapur, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.25,000/- each (Rupees Twenty Five Thousand each Only) with one or two sureties each in the like amount.
- (ii) The applicants shall attend the concerned police station once every month for the period of six months from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)