

shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2608 OF 2019

1. Bharat Rajkumar Sharma	]	
2. Rajkiumar Puranchand Sharma	]	Applicants

Versus

State of Maharashtra	]	Respondent
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Mr. Rohit P. Sawant, for the Applicant.

Mr. S.S. Hulke , A.P.P for the Respondent - State.

P.S.I- A.P. Sawant, Nerul Police Station.

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CORAM : REVATI MOHITE DERE, J.

DATE : 3rd OCTOBER, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C. R. No.344 of 2019 registered with the Nerul Police Station, Mumbai, for the alleged offences punishable under Sections 452, 454, 427, 506 (2) r/w 34 of the Indian Penal Code.

3. Perused the papers. According to the complainant-Rehan Khan, the incident took place on 31st July, 2019. It is alleged by the complainant that there was an argument between him and the applicant No.1 and that the applicant No.2 also came to the spot, after which the applicants assaulted complainant's brother-Sameer with a screw driver and Bamboo stick. Learned Counsel for the applicants submits that it is the complainant, who came to the applicants' house and assaulted the applicant No.1 on his ear, resulting in the applicant No.1 suffering permanent deafness.

4. Learned Counsel for the applicants states that although the applicant No.1's mother lodged a complaint as against the complainant in the present C.R., no action has been taken by the Police and no offence is registered as against the complainant, till date.

5. Learned A.P.P has produced injury certificate of Sameer. It appears that Sameer has sustained an injury on his left parietal region of scalp, right side upper eyelid, left cheek near mouth, left scqular region and left arm. Nature of injury has not been mentioned by the Doctor. Prima facie, it appears that the injuries are simple in nature.

6. Learned A.P.P states that the Investigating Officer is not available, as he is on election duty. The Officer who is present in Court to instruct the learned A.P.P is unable to assist. He is unable to state why the applicant No.1's complaint was not registered despite the applicant No.1 sustaining permanent damage to his eardrums.

7. Prima facie, it is doubtful whether a screw driver as alleged was used in commission of the offence, having regard to the nature of injuries mentioned in the injury certificate. It appears that there is professional rivalry between the parties. It appears that the incident has taken place outside the applicants' house, when the complainant had gone to question the applicant No.1. It is also pertinent to note that although the complainant has alleged that he was assaulted with a screw driver in his neck, there is no corresponding injury to that effect. The complainant's injury certificate is not on record. The applicants have no antecedents.

8. Considering what is stated hereinabove, the Application is allowed on the following terms & conditions :-

O R D E R

(i) The Applicants be released on cash bail in the sum of Rs. 10,000/-, for a period of four weeks;

(ii) The Applicants shall within the said period of four weeks, furnish P. R. Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;

(iii) The Applicants shall report to the investigating officer of the concerned police station on every Sunday between 10.00 a. m. and 11. 00 a.m, till filing of the charge-sheet.

(iv) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case and shall not commit similar offence;

(v) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicants shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court.

8. The Application is allowed and disposed of in above terms.
9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
10. All concerned to act on the authenticated copy of this order.

[REVATI MOHITE DERE, J.]