

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

CRIMINAL BAIL APPLICATION NO. 2747 OF 2019

Lakhan Dongare	...	Applicant
V/s		
The State of Maharashtra	...	Respondent

Mr. V.V. Purwant a/w Rushikesh S.Kale, for the Applicant.
Mr. Prashant Jadhav, APP for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th November, 2019

PC :

. Leave to amend to correct the C.R. number is granted.

2 The applicant is seeking bail in C.R.No. 526 of 2017 registered with Vakad Police Station, District-Pune, for the offences punishable under Sections 326, 427 of the Indian Penal Code. Subsequently, section 307 of the Indian Penal Code was invoked. The First Information Report ("FIR" for short) was lodged by Ganesh Tonpe on 9th September, 2017 against three to four unknown persons. It was stated that on 8th September, 2017, the informant was informed by Pradip Pote that Rakesh Tonpe has been assaulted and he

has been admitted to the hospital. The informant went to the hospital. The injured was admitted in the hospital and was under treatment. Rakesh had sustained injuries. He made enquiries with Pravin Shirke. Pravin Shirke had informed him that Pravin had informed Rakesh (injured) that on account of teasing girl, Akshay Phalke has been assaulted by some boys. To compromise the issue, said boys are coming at Kalewadi. At about 9-45 pm, Rakesh, Pravin Shirke and Akshay Phalke went to the place where all of them were supposed to meet for executing compromise. Pravin Shirke further informed that while the discussion was in progress, one person wearing white T-shirt had suddenly assaulted Rakesh by sickle and gave blows on his head, thigh and shoulder. On the basis of his information, Ganesh Tonpe lodged the complaint against unknown persons.

3 From the tenor of the FIR, it is apparent that Pravin Shirke had provided information to the complainant about the assault on Rakesh Tonpe by one unknown person with the aid of sickle. Subsequently, the statement of Pravin Shirke was recorded on 9th September, 2017. In his statement, Pravin has stated that some persons had

questioned Akshay on account of teasing. Pravin tried to pacify the quarrel. Akshay and Pravin were assaulted, hence they ran away. Then they met Rakesh Tonpe and informed him about it. All of them went to compromise. While discussion, two to three persons armed with weapon came with weapons. Pravin and Akshay ran towards petrol pump and Rakesh ran towards Ganaraj Colony. They gave information to brother of Rakesh on phone and after half an hour went towards Ganaraj corner and found Rakesh in injured condition. He was admitted to hospital. Thus, he has not seen actual assault upon injured Rakesh. The statement of injured Rakesh was also recorded on 9th September, 2017. In his statement, he has referred to assault by the applicant and others by using sickle on thigh. The injury certificate refers three injuries. The injured was treated and discharged from the hospital.

4 Learned counsel for the applicant submits that there is doubt about authenticity of the version of the injured person. The version of injured Rakesh and Pravin Shirke is contrary to the FIR. There is every possibility of improvement and false implication of the applicant in the crime. There are no criminal antecedents against the

applicant. He is in custody since 22nd April, 2019.

5 Per contra, learned APP submitted that the statement of Rakesh Tonpe attributes specific overt act to the applicant having assaulted him by weapon. The version of the complainant being hearsay may not be taken into consideration. There is recovery of weapon from the applicant.

6 As narrated above, the version of the complainant proceeds with assault by the sickle by individual person as informed to him by Pravin Shirke. According to the informant, the incident was narrated to him by Pravin Shirke. The statement of Pravin Shirke is, however, contrary to what is purportedly informed to the complainant. The statement of injured was also recorded on 9th September, 2017. The FIR refers to assault by a one person by sickle, whereas subsequent version of Pravin Shirke and Rakesh Tonpe is in variation with the FIR. The injured has referred to assault by sickle. There are no criminal antecedents against applicant. The statement of Akshay is also on par with statement of Pravin. The involvement of applicant as assailant through statement of

injured which came into existence on 09/09/2017. The investigation is completed and charge-sheet is filed. The applicant can be granted bail on certain terms and conditions. Hence, the following order.

:: O R D E R ::

- (i) Bail Application No. 2747 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No. 526 of 2017 registered with Wakad Police Station, District - Pune, on his 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 the jurisdiction of Wakad Police Station till the conclusion of trial;
- (iv) The applicant shall furnish the details of place of residence to the Investigating Officer and shall report the nearest police station where he would reside after he released on bail;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)