

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Cr. Bail Application No. 29 of 2020

Pravin Dagdu Shendge ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Suryakant Lavte, for the Applicant.

Mr. Ajay Patil, APP for the Respondent - State.

CORAM : C. V. BHADANG, J.

DATE : SEPTEMBER 16, 2020
(Through video conference)

PC :

1. This is an application for bail.
2. The applicant along with co-accused is facing prosecution, for the offence punishable under Section 307, 323, 504 read with Section 34 of the Indian Penal Code ('IPC' for short).
3. The prosecution case as disclosed from the complaint of the victim Sanjay Anuse is that on 24th February 2019 at about 10 a.m. the complainant along with his wife Seema, brother Maruti and

Sister-in-law Vimal and Kalpana were at their house, when the co-accused Dagadu Kundalik Shendage and his brother Babu Kundalik Shendage were putting earth by means of a JCB, on the cart road leading to the house of the complainant. When Dagadu and Babu were accosted a dispute and a quarrel ensued which turned into a hot exchange of words and altercation. It is said that the co-accused Dagadu, claimed that the road is passing through his land. It is the material prosecution case that the complainant and his wife and others were assaulted by fists and blows. At that time the applicant came with a stick in his hand and assaulted the complainant from behind, on the left side of his head, as a result the complainant sustained bleeding injury. The complainant states that he lost consciousness and regained it only on 09th March 2019, when he found himself in Civil Hospital Miraj. The statement of Sanjay was recorded on 22nd March 2019 and after completion of the investigation a charge-sheet is filed against the applicant, his father Dagdu Shendage and his uncle Babu Shendage.

4. I have heard the learned counsel for the applicant and the learned Additional Public Prosecutor. With the assistance of the learned counsel for the parties, I have gone through the record and

the copy of the charge-sheet produced.

5. The learned counsel for the applicant strenuously urged that even going by the prosecution case, no case of an attempt to commit murder can be said to be made out. He submitted that at the highest the offence would be one under Section 326 or 324 of the IPC. He points out that the investigation is complete and the charge sheet is filed and the co-accused have been released on bail. He submitted that no purpose would be served by detaining the applicant particularly in view of the fact that in the present circumstances the trial cannot be expedited or concluded in near future.

6. The learned Additional Public Prosecutor opposed the application saying that the offence is serious and the circumstances are sufficient to gather an intention to cause death of the complainant.

7. I have carefully considered the circumstances and the submissions made. *Prima-facie* it appears that the dispute started on account of the co-accused Dagadu and Babu putting earth on the road leading to the complainant's house by means of a JCB. It *prima facie*

appears that the dispute turned into hot exchange of words. During the incident the applicant is alleged to have come from behind and assaulted the victim with a single blow.

8. It is neither necessary nor appropriate at this stage to appreciate the evidence in depth or to express any final opinion, lest it may prejudice, either the prosecution or the defence at the trial. Suffice it to mention that the incident appears to have happened at the spur of the moment and in the heat of passion. *Prima-facie* it appears that there was no pre-meditation which can be attributed to the applicant as there was a sudden quarrel on account of the putting of the earth on the road leading to the house of the complainant.

9. The investigation is complete and the charge-sheet is filed. The co-accused have been released on bail. In such circumstances, I find that the applicant deserves to be released on bail.

10. Hence, the following order:-

ORDER

(i) The criminal application is allowed.

(ii) The applicant be released on bail, on executing a PR bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.

(iii) The applicant shall undertake to remain present before the learned Sessions Judge, during the course of the trial.

(iv) The applicant shall not directly or indirectly make any contact or influence or tamper with the prosecution evidence / witnesses.

(v) The applicant shall stay out of village Ped, taluka Tasgaon till framing of the charge / commencement of the trial.

(vi) In the event of breach, of any of the conditions the bail is liable to be cancelled.

(vii) The criminal application is disposed of in the aforesaid terms.

C. V. BHADANG, J.