

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.161 OF 2021

Balaji s/o Tatyaba @ Tatyaram Bikkad ... **Applicant**

Versus

The State of Maharashtra ... **Respondent**

.....

Mr. G. J. Karne, Advocate for the applicant.

Mr. S. Y. Mahajan, APP for the respondent – State.

.....

WITH

CRIMINAL APPLICATION NO.397 OF 2021

Annasaheb Tatyaraao Bikkad ... **Applicant**

Versus

1. The State of Maharashtra

2. Balaji Tatyaram Bikkad

... **Respondents**

.....

Mr. M. S. Adate and Mr. V. G. Kodule, Advocate for applicant.

Mr. S. Y. Mahajan, APP for respondent No.1- State.

Mr. G. J. Karne, Advocate for respondent No.2.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 11th March, 2021

Pronounced on : 16th March, 2021

ORDER :-

. Present bail application has been filed by the accused who has been arrested on 03.01.2021 in connection with Crime No.03 of 2021 by Kallam Police Station, District Osmanabad for the offence punishable

under Sections 326, 324, 504, 506 read with 34 of Indian Penal Code. Present application has been filed by him for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. G. J. Karne for the applicant and learned APP Mr. S. Y. Mahajan assisted by learned Advocate Mr. M. S. Adate for original informant.

3. It has been vehemently submitted on behalf of the applicant that the First Information Report has been lodged with ulterior motive just to harass the applicant. There is a huge battle of litigation between the families in respect of boundaries of their agricultural lands. Entire family has been roped in the FIR. The allegation against the applicant is that he has caused injuries to the informant by stick. It could not have resulted in fracture. The applicant is also having certain rights in respect of his agricultural land and, therefore, possibility of right of private defence cannot be ruled out. Now, the informant and his wife have been discharged, substantial part of the investigation is also over; therefore, the further physical custody of the applicant is no longer required. The applicant is ready to abide by the terms of the bail. The learned Advocate appearing for the applicant has, therefore, canvassed for releasing the applicant on bail.

4. Learned APP well assisted by learned Advocate Mr. M. S. Agate for the original informant has strongly opposed the application. It has been submitted on behalf of the prosecution that though there is dispute in respect of boundaries, yet the applicant is not supposed to take the law in his hand. Informant has stated that he along with his wife, daughter and sons had gone to their agricultural land. His wife returned home at about 7.15 p.m.. She was beaten by the present applicant's son Shivaji in front of their house by iron rod. The wife of the present applicant was holding axe and daughter of the present applicant made the wife of the informant to lie on the ground after pulling hair. When the informant and his daughter went to rescue the wife of the informant, the daughter was assaulted by stone, informant's son Pravin received injury to his right thumb and the informant was assaulted by Shivaji with iron rod resulting in fracture to his left hand. Further, the allegation against the present applicant is that he has assaulted the informant with stick on his left leg and head. Informant and his family members were given threat to kill. The dispute had started when the wife of the informant asked the wife of the accused as to why she has kicked the iron sheet belonging to the informant. The medico-legal certificates of the wife of the informant as well as informant would show that they have sustained grievous injuries. There are eye witnesses to the incident. The applicant is

residing in the same area where the informant and the witnesses are residing and, therefore, possibility of similar crime in future cannot be ruled out. Taking into consideration the evidence against the present applicant, he is not entitled to be released on bail.

5. At the outset, the contents of the first information report have been narrated earlier and, therefore, they are not reproduced here. The police papers made available, would show that substantial part of the investigation is over. We are required to consider the allegations against the present applicant. It has been alleged that the present applicant had assaulted the informant with stick on the left leg and head. If we consider his medico-legal certificate, it shows contused lacerated wound to the parietal region of the head with abrasion; however, the nature of the injury is stated to be simple. As regards the injury to his left leg, it is stated that it is in the nature of contusion with bruises and the nature of that injury is also stated to be simple. Though there is grievous injury to his left forearm in the nature of fracture, however, as per his own version in the first information report, it is caused by accused Shivaji. The injuries to the wife, daughter and son of the informant are stated to have been caused by co-accused and not by this applicant. Two sticks have been recovered during the course of the investigation. Under such circumstance, the further physical custody of the applicant appears to be

not required for the purpose of investigation. It also appears that there is enmity between the two families. Ground of enmity is a double-edged weapon. Taking into consideration the allegations, the weapon allegedly used by the present applicant, he deserves to be released on bail, however, on stringent conditions. Hence, the following order :-

ORDER

1. Bail Application No.161 of 2021 stands allowed.
2. Criminal Application No.397 of 2021 for assist to PP stands allowed and disposed of.
3. Applicant – Balaji s/o Tatyaba @ Tatyaram Bikkad, who has been arrested in connection with Crime No.03 of 2021 registered with Kallam Police Station, District Osmanabad for the offence punishable under Sections 326, 324, 504, 506 read with 34 of Indian Penal Code, be released on P. R. Bond of Rs.30,000/–, with two sureties of Rs.15,000/- each.
4. The applicant shall not indulge himself in any criminal activity.
5. He shall remain present before the Investigating Officer on every Monday between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet.
6. He shall cooperate with the investigation.

7. In case of breach of terms of conditions of bail, prosecution is at liberty to file an application under Section 439(2) of the Code of Criminal Procedure.

[SMT. VIBHA KANKANWADI, J.]

scm