

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 BAIL APPLICATION NO.183 OF 2021

SAGAR UDDHAV KAMBLE AND ANR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. More P. P.
APP for Respondent-State : Mr. A. M. Phule.
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 03-03-2021.

ORAL ORDER :

1. Present applicants have been arrested in connection with Crime No.47 of 2021, by Vivekanand Chowk Police Station, Latur Dist. Latur, for the offences punishable under Section 307, 364, 366, 143, 147, 148, 149, 323, 504 of Indian Penal Code and Section 135 of Bombay police Act, and Section 4(25) of Arms Act. They have filed present application under Section 439 of Code of Criminal Procedure.
2. Heard learned Advocate Mr. P. P. More for applicants and learned Additional Public Prosecutor Mr. A. M Phule for respondent-State. In order to cut short it is stated that, both of them have made submissions in support of their respective contentions.
3. It can be seen from the contents of the First Information report

which has been lodged by one Balaji Dadarao Hulgunde that some dispute had taken place at about 08.00 p.m. near a pan shop between one Amrut Deshmukh and Vipul Patil. As per the informant when he tried to say that they should not indulge in dispute, at that time Vipul Patil went nearby and called four persons i.e. namely Shakti Gurne, Sohail Shaikh, Akshay Sakat and Sagar Kamble (present applicant No.1). Thereafter, the informant is stated to have been assaulted by Shakti Gurne by scythe on his neck, but as he had gone step backward to avoid the blow, it had caused scratches on his neck. Thereafter, informant and his friend ran towards Eastern side, at that time Shakti Gurne had thrown the scythe which hit the left calf of the informant and then he fell down. Thereafter, those four persons assaulted him by kicks and fists. He was forcibly taken on motorcycle to another place called 'More Tailor chowk'. Thereafter one Rahul Tambre, Ashish Autowala, Baba Shaikh and Kaif Shaikh joined the other four persons and they had assaulted the informant by kicks and fists blows. Learned Advocate for the applicants submits that this Ashish Autowala is probably applicant No.2. The informant further states that thereafter Shakti Gurne had again assaulted him by scythe and also Akshay Sakat with his own separate scythe. In the meantime, Shakti Gurne had received

phone call from somebody, and thereafter, all of them fled away from the said place.

4. Thus, the perusal of the contents of the First Information Report would show that as regards the present applicant No.1 is concerned, the First Information Report gives role to him in the form of assault by kicks and fists blows. Similar might be the allegations against applicant No.2 if he has been referred as Ashish Autowala.

5. The learned Additional Public Prosecutor strongly submits that there are eye-witnesses to the incident and because of such activity on the part of the accused persons, there is terror in the vicinity. However, he has pointed out that as per the Medico Legal Certificate, four injuries have been sustained by the informant. The Learned Additional Public Prosecutor submits that though the injuries are stated to be simple, yet they are on the vital part of the body, and therefore, when there is ample evidence against the present applicants, they need not be released on bail.

6. When the injuries are simple then it will have to be proved by the prosecution that they were dangerous to the life of the informant. Further if we consider the picture that was tried to be

painted by the informant in his First Information Report and when two persons are stated to have assaulted him by scythe of which one edge is definitely sharp, then whether only simple injuries can be caused is the point that will be decided by the learned Trial Judge. Under such circumstance, taking into consideration the contents of the First Information Report and the Medico Legal Certificate, the present applicants, on the basis of role attributed to them in the First Information Report, deserve to be released on bail. Hence, following order.

ORDER

- 1) Applicant No.1 Sagar s/o Uddhav Kamble and applicant No.2 Ashish s/o Balu Sirsat, arrested in connection with Crime No.47 of 2021, registered with Vivekanand Chowk, Latur Police Station, District Latur, for the offences punishable under Section 307, 364, 143, 147, 148, 149, 323, 504 of Indian Penal Code, under Section 135 of Bombay Police Act and Section 4 (25) of Arms Act, they be released on P.R. of Rs.30,000/- each (thirty thousand) with two solvent sureties of Rs.15,000/-(fifteen thousand).
- 2) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 3) They shall not indulge in any criminal activity.

- 4) Before submission of bail papers, the applicants should give complete address of his residence with their mobile number. So also they should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.
- 5) They shall attend the vivekanand Chowk, Latur Police Station District Latur, on Monday and Thursday in between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.
- 6) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-