

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.262 OF 2021

BHASKARRAO KISHANRAO DESHMUKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Mr. S.S. Deshmukh, Advocate for applicants

Mr. S.B. Narwade, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 22nd APRIL, 2021

PRONOUNCED ON : 08th JUNE, 2021.

ORDER :

1 Both the applicants have been arrested in connection with Crime No.36/2021 dated 01.02.2021 registered with Sengaoon Police Station, Dist. Hingoli, for the offence punishable under Section 307, 341, 354, 324, 323, 504 read with Section 34 of the Indian Penal Code, 1860. They have filed present application under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. S.S. Deshmukh for applicants and

learned APP Mr. N.B. Narwade for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 It can be seen from the First Information Report lodged by one Urmila Sundarrao Dehmukh that she stays with her husband, son and daughter. They own agricultural land bearing Gat No.591 admeasuring 04 Acres 04 Gunthas in village Sengaon. It has been stated that in the litigation, which was fought up to Hon'ble Apex Court, they got the said land from Kisanrao Deshmukh in the year 2012 and since then they are cultivating the said land. Adjacent to the said land there is land of Kishanrao Deshmukh. Present applicant No.1 is the son of said Kishanrao Deshmukh and applicant No.2 is the son of applicant No.1. Informant says that since 2012 the family of the applicants constantly raise the dispute with the informant's family. She further states that she went to land alone around 11.00 a.m. on 26.01.2021 and started the agricultural operations. Around 5.30 p.m. she found that the applicant No.1 and his wife were taking their she buffalo and cow from the land of the informant with intention to cause damage. There is no road going from the land of the informant. Applicant No.1 was having axe and stick in his hand. Informant told that since there is no road, he is causing damage to their crops. However, the applicant No.1 told that he would go from that way only and if she talks more then she would be killed by the

blows of axe. Thereafter applicant No.1 and his wife started to go towards the village. Informant was walking behind them. She was also going towards her house. When she was in front of one cloth shop called 'Manmandir' around 6.00 p.m., she told them that she would lodge report against them as he has given threat to kill her. Thereafter, the present applicant No.1 and his wife obstructed the way of informant and applicant No.1 gave blow of axe on the informant, which hit her forehead just above the right eye and when she tried to run from that place, applicant No.1 caught hold of her hand and dragged her pallu from head downwards. Wife of applicant No.1 gave blow of stick on the right hand of the informant and by catching hold of hair of informant she was dragged. In the meantime, applicant No.2 came and he gave blows of iron rod on the head of informant from back side. Since she has suffered severe injury to her head she got giddiness and fell down. She was taken by one Shubham Ghatulkar and Amol Tidke to Government Hospital, Sengaon, who had then referred her to Civil Hospital, Hingoli. From there also she was shifted to Nirmal Hospital, Nanded. She was admitted there till 29.01.2021. Though she was discharged, she was under medication and still feeling giddiness and, therefore, she went to Police Station on 01.02.2021 and lodged the report.

has tried to give explanation for the delay in lodging the report. It also appears from the injury certificate, issued by Rural Hospital, Sengaon, where she was referred first, that she had only two injuries. One was Contused Lacerated Wound 3 x 0.5 x 2 c.m. in size, on right frontal area above eyebrow. It is stated that it was simple injury but she was referred to Civil Hospital for C.T. scan. The second injury was Contusion on left occipital area, which was stated to be simple injury. There is no mention of any injury to her right hand and injury to the head from back side. Thereafter, the police papers show the report from Nirmal Neuro Care and Super Specialty Centre, Nanded. Any certificate from Civil Hospital, Hingoli has not been yet collected. The diagnosis in the discharge card issued by Nirmal Hospital would show that she had left frontal small contusion with mild to mod cerebral edema. History and finding on admission show the head injury at frontal region. There was general weakness and convulsion. So, even if we consider both these certificates, there is no such injury noted, which could be co-related to the alleged assault of iron rod from back side from applicant No.2. Further, as regards the frontal injury is concerned, it is stated that it would have been possible by hard and blunt object. Axe cannot be said to be simply hard and blunt object, taking into consideration the sharp edge to the blade of the axe. Now, if we consider the FIR and statements of the eye witnesses, then they say that present applicant No.1 had assaulted the

informant with the handle of the axe. When the axe is there and if there was intention to cause severe injury or grievous injury, then why the sharp edge of the axe could have kept away from the informant, is a question.

5 From the perusal of the police papers, it appears that the substantial part of the investigation is over, the discovery has been made regarding the weapon and, therefore, further physical custody of the applicant is not required. Taking into consideration the fact that they have permanent place of abode and the evidence, that is, collected uptill now, they deserve to be released on bail, however, with stringent conditions. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicants viz. 1) Bhaskarrao Kishanrao Deshmukh and 2) Shyam Bhaskarrao Deshmukh, who have been arrested in connection with Crime No.36/2021 dated 01.02.2021 registered with Sengaon Police Station, Dist. Hingoli, for the offence punishable under Section 307, 341, 354, 324, 323, 504 read with Section 34 of the Indian Penal Code, 1860, be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicants shall not tamper with the evidence of the prosecution, in any manner.

4 They shall not indulge in any criminal activity.

5 The applicant No.1 Bhaskarrao Kishanrao Deshmukh shall attend the Police Station, Sengaon, Dist. Hingoli on every Monday and Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

6 The applicant No.1 shall not enter the jurisdiction of Sengaon till the conclusion of trial. He should reside elsewhere, and before submission of bail papers, the applicant No.1 should give complete address of his proposed residence with his mobile number. So also he should comply with the requirements under paragraph Nos.12 (1) to (6) of Chapter I of Criminal Manual, (whichever are applicable).

7 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)