

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1709 OF 2021

Mandar Krushnadev Kadam ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Kedar Patil for the Applicant.

Mr. A.A. Palkar, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.

RESERVED ON : 16TH NOVEMBER, 2021

PRONOUNCED ON : 23RD NOVEMBER, , 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 0985 of 2018 registered with Karad City Police Station, District -Satara for offences punishable under Sections 307, 506 read with 34 of the Indian Penal Code (the IPC).

2. It is the case of prosecution that on 26th December, 2018 in the morning, a quarrel had taken place and thereafter at

about 3.15 pm on the same day, accused Mandar Kadam (applicant), Akshay Jadhav, Amol Mane and brother-in-law of applicant with a view to kill the brother of informant, namely, Juber caught hold of him. It is further alleged that when the applicant raised a knife to assault informant's brother, informant picked up a wooden log and hit on the head of applicant and from there, he and others fled away. Later on, informant lodged report.

3. Mr. Patil, learned Counsel for the applicant, submits that arising out of the same incident in which he was assaulted by the informant in the present case, his First Information Report (FIR) came to be recorded earlier. Learned Counsel then invited my attention to his FIR and as also the medical certificate in respect of the injuries sustained by him. According to learned Counsel, the injuries were grievous in nature whereas in the case in hand except that the applicant had raised a knife to assault the brother of informant, there is nothing else. The present complaint is only filed by way of after thought, according to learned Counsel.

4. Mr. Palkar, learned APP, fairly submits that the informant or for that matter his brother had not sustained any injury in the incident and, therefore, submits that an appropriate order may be passed.

5. Perused FIR and the investigation papers. It appears that arising out of the same incident, Akshay Jadhav i.e. co-accused had filed FIR against informant in the present case on the basis of which C.R. No. 983 of 2018 under Sections 307, 325, 323, 506 read with 34 of the IPC came to be registered.

6. It is then further seen that the said Akshay Jadhav and Mandar Kadam i.e. applicant had sustained grievous injuries as a result of assault mounted by the informant in the present case. The fact of assault is also admitted by the informant in his own FIR. On the other hand, the allegations against the applicant in the case in hand is that he only had raised a knife in order to assault the brother of informant and nothing else.

No injury was sustained even remotely by the brother of informant or for that matter informant himself.

7. Thus, having regard to the facts and circumstances of the case, in my considered opinion, the applicant has made out a case for bail. Hence, the following order :

ORDER

(i) Applicant- Mandar Krushnadev Kadam shall be released on bail in C.R. No. 985 of 2018 registered with Karad City Police Station, Satara on his executing P.R. Bond in the sum of Rs. 20,000/- with one or two surety/ sureties in like amount.

(ii) Bail before the trial Court.

(iii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(iv) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V.G.BISHT, J.)