

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO.1571 OF 2020**

Mallinath Sharnappa Godale

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Ritesh Thobde i/b. Mr.Sagar Tambe, Advocate for Applicant.
- Mrs.J. S. Lohokare, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 13<sup>th</sup> JANUARY 2021**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No.1065/2020 registered with MIDC Police Station, Solapur, on 08/08/2020 under sections 326, 324, 506 r/w 34 of the Indian Penal Code and 4 and 25 of the Indian Arms Act. Subsequently section 307 of IPC was added. The Applicant was arrested on 16/08/2020 and since then he is in custody. Investigation is carried out and chargesheet is filed.

2. The FIR in this case is lodged by the injured Suresh Basappa Petty himself. He has stated that the Applicant was a truck driver and since one month prior to the incident, he was not on good terms with the first informant. On 08/08/2020 at

about 05.00 p.m. the Applicant called the informant to Mallikarjun Nagar. The informant went there. The Applicant and his three friends were standing there. The Applicant without saying a word, gave blow of sword on the informant's left hand. The informant's friend Manjoj Wawre tried to intervene. He was assaulted by the Applicant and his three friends. The Applicant again gave a blow with sword on his head. The Applicant told him that this time, he was left alive, but on the next time he would be finished. After uttering these words he left the place. The informant was taken to a hospital, where his statement was recorded and the FIR was lodged.

3. Heard Mr.Ritesh Thobde, learned counsel for the Applicant and Mrs.J. S. Lohokare, learned APP for the State.
4. Mr.Thobde, submitted that the offence can never be that u/s 307 of IPC. The injuries suffered by the Applicant are not life threatening injuries. They are not even grievous injuries. He submitted that the Applicant is falsely implicated because of the previous enmity. The incident appears to be a petty incident.

The Applicant deserves to be released on bail. He is in custody since 16/08/2018. His further custodial interrogation is not necessary.

5. Learned APP opposed this application. She submitted that there are eyewitnesses. One of the eyewitnesses has given his statement u/s 164 of Cr.P.C. and therefore the occurrence of incident cannot be doubted. She submitted that looking at the nature of the incident there is a possibility that such offence can be repeated by the Applicant. She therefore opposed grant of bail to the Applicant.

6. Reasons -:

With assistance of both the learned counsel I have perused the entire chargesheet annexed to this application. Apart from the informant there is statement of one Hanumant Laxman Chinchole, who was an eyewitness and who has narrated the incident in the same manner as is described in the FIR. There is one more eyewitness Manohar @ Manoj Baburao Wawre whose statement is recorded u/s 164 of Cr.P.C. There also

he has corroborated allegations in the FIR. Therefore at this stage, the occurrence of incident cannot be doubted. However, the medical certificate in this case is important. The medical certificate issued by a private hospital, which is part of the chargesheet, shows that there is a CLW 5 cms x 1 cm x 1 cm on the forehead of the informant and there was a cut injury of dimension 15 cms x 3 cms x 3 cms on the left hand wrist. This injury was described as a grievous injury as sensation of the fingers was affected.

7. Though undoubtedly the Applicant has caused grievous injuries, the offence may not fall within the section 307 of IPC. None of these injuries was a life threatening injury. The Applicant was carrying a sword and yet he did not give any more blows on the vital parts of the informant causing life threatening injuries. The offence at the highest can be that u/s 326 of IPC. The Applicant is in custody since 16/08/2020. The investigation is over. His further custody for investigation is not necessary. However, considering the nature of the allegations,

some conditions will have to be imposed on the Applicant. It is made clear that the observations made in this order are restricted to passing of this order only and trial Court shall not be influenced by these observations while conducting the trial.

8. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.1065/2020 registered with MIDC Police Station, Solapur, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once a week for a period of one year from today.
- (iii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**