

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.203 OF 2021
WITH
INTERIM APPLICATION (ST) NO.10270 OF 2021

Mitesh Suresh Shinde .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Aniket Nikam i/b Mr.Piyush Toshnival for the Applicant.

Mr.Shailesh Kharat for the Intervenor.

Mr.S.H.Yadav, APP for the State.

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CORAM: BHARATI DANGRE, J.

DATED : JULY 27, 2021

P.C:-

1. Heard learned counsel Mr.Nikam appearing for the applicant, learned counsel Mr.Kharat appearing for the intervenor and learned APP Mr.Yadav appearing for the State.

2. The applicant has been arrested by Bharti Vidyapeeth Police Station, Pune in connection with C.R.No.581 of 2019 registered on 25/08/2019 for allegedly having committed the offences punishable under Sections 307, 326, 143, 144, 147, 148, 149 of the IPC and Section 37(1)(3) read with Section 135 of the Maharashtra Police Act alongwith Section 4(25) of the Arms Act.

3. The alleged incident took place on 24/08/2019 and the FIR was lodged on 25/08/2019. The applicant is arrested on 31/08/2019 and since then he is incarcerated. The complainant, who was injured in the incident, gave a statement on 25/08/2019 that there was some dispute ensued between his friend Santosh More and one Karan Shinde, pursuant to which, the complainant questioned Mitesh (applicant) who is Karan's brother, as to why his friend was assaulted. Holding grudge against the complainant, it is alleged that on the day of incident i.e. on 24/08/2019, when he was returning to his home after attending one religious function, he realised that he was being chased by some persons and on looking back, he noticed Karan Shinde, Mitesh and two unknown persons rushing towards him. Instantly, Karan assaulted him by the sword in his hand and since he attempted to evade the blow, it landed on his left hand. The applicant is alleged to have assaulted by means of a scythe in his hand and the blow landed on the index finger of his right hand and resulted into severing of the said finger and also causing injury to his middle finger. He started running away from the spot and it is alleged that he was assaulted on his head, back and the other two persons accompanying the named accused also assaulted him by scythe on his chin. This resulted into registration of the said CR.

4. The complainant was referred for treatment and the injury certificate issued by Bharati Vidyapeeth University Medical College Hospital and Research Center, Pune refers to 11 injuries. Injury Nos.1 to 9 are simple injuries in form of

split lacerated wound and linear incised wound on the left parietal region, left temporo occipital region, maxillary region, chin, nape of neck and dorsal aspect of forearm. As far as injury Nos.10 and 11 are concerned, these injuries are grievous injuries and the same are described as under :-

“10. Total amputation of left ring finger;

11. Partial amputation of left middle finger”

The author of above two injuries is the present applicant. Indisputedly, the assault caused serious injuries to the complainant, which required long hospitalization. That is why the counsel for intervenor vehemently oppose release of applicant on bail.

5. *Prima facie*, when the role assigned to the respective accused is carefully scrutinized, the applicant is author of injury Nos.10 and 11, which are grievous in nature, which reflect that the applicant had no intention to hit on such portion of body which would have resulted into death of the complainant and, therefore, he could at the most held guilty under Section 326 of the IPC for causing grievous injury. In any contingency, the cumulative effect of the entire incident of assault will be scrutinized during the course of trial. However, since the investigation is complete and the role attributed to the present applicant has clearly featured on surface through the charge-sheet, the applicant who has been arrested on 31/08/2019, in absence of the charge being framed, cannot be kept languishing behind bars. He is, therefore, entitled to be released on bail by accepting his undertaking that he would

reside outside city of Pune till the charge is framed and in no way, he shall tamper with the case of the prosecution or coerce the complainant in any manner. Hence, the following order.

: ORDER :

- (a) The application is allowed.
- (b) Applicant - Mitesh Suresh Shinde shall be released on bail in C.R.No.581 of 2019 registered with Bharti Vidyapeeth Police Station, Pune on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall stay outside city of Pune till framing of charge and subsequent to framing of charge, the Sessions Court is at liberty to modify or relax the said condition.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

(SMT. BHARATI DANGRE, J.)