

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

CRIMINAL BAIL APPLICATION NO. 425 OF 2021

Lakhan Balasaheb Parakhe

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Nitin Sejpal a/w. Akshata B. Desai a/w. Hiren Mehta for
Applicant.

Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 271 of 2020 registered at Nandgaon police station, Nashik, on 29/05/2020, under sections 307, 324, 323, 143, 144, 147, 148, 452 r/w. 149 of the Indian Penal Code (for short 'IPC'). The applicant is arrested on 01/06/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Shri. Nitin Sejpal, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The prosecution story unfolds through the F.I.R. lodged by Madhuri Borade and injured Bhushan Aher. Both of them were in live-in relationship. They have stated about the incident dated 26/05/2020 which had taken place at around 10.30 a.m. Both of them have stated that they were in their house. Suddenly, 6 persons who are named in the F.I.R., as well as, in Bhushan's statement, entered their house. The applicant was one of them. Out of them, Shailesh, Vaibhav and Ramnarayan assaulted Bhushan with sickle on his head. Yuvraj and Nilesh assaulted Bhushan with iron rod and applicant assaulted Bhushan with wooden stick on his head, back and leg. This incident had taken place because of previous enmity as the accused were angry with Bhushan for constantly raising quarrels with them. After assaulting him, he was dragged in front of the house of one Vijay Shinde and again he was assaulted. The neighbours intervened and the assailants went away. In the meantime, even Madhuri was assaulted by Vaibhav. Bhushan was first removed to Nandgaon

Primary Health Center. He was advised to go to Malegaon. Since Covid-19 situation was bad in Malegaon, he was taken to Chalisgaon. The F.I.R. was lodged on 29/05/2020 and Bhushan's statement was recorded on 10/06/2020.

4. Shri. Shejpal submitted that the injured Bhushan has not suffered life threatening injury. A minor role is attributed to the present applicant. He is in custody since June 2020 and, therefore, leniency be shown in granting bail.

5. Learned APP opposed this application. He relied on the injury certificates of Bhushan and Madhuri to oppose this application.

6. I have considered these submissions and with the assistance of both learned counsel I have perused the entire charge-sheet. As mentioned earlier, the statements of Madhuri and Bhushan are important as they have described the incident in detail. Madhuri had suffered two simple injuries. Bhushan had suffered injuries as follows:

i) C.L.W. over scalp; sub divided in three injuries of dimensions 1) 6cm. X 1cm., 2) 4cm. X 1cm. and 3) 3cm. X 1cm.

They were described as grievous injuries caused by a sharp weapon.

ii) CLW over left leg of 2cm in length caused by blunt object like wooden stick. It was described as a simple injury.

There are three other injuries mentioned out of which two were described as grievous injuries. They were in the nature of fracture to the one finger of hand and leg each. They were caused by hard and blunt object and last injury was CLW over scalp region.

Thus it can be seen that all the injuries on the head were caused by a sharp object. The applicant is attributed role of carrying stick and assaulting with stick, therefore, no head injury was caused by the present applicant. It was caused by sickle attributed to other accused. Thus, at this stage, there is a scope to believe that the applicant did not intend to commit murder of Bhushan, therefore, offence of attempt to commit murder as defined under section 307 of IPC may not be attracted against him. Even otherwise, it does not appear that all the assailants had shared any common object or common intention to commit

murder of Bhushan. He was at their mercy as they had weapons but there was no assault to such an extent that he could lose his life. The applicant's role is minor as compared to the roles attributed to others, therefore, leniency can be shown to the present applicant. Considering all these factors, the applicant can be granted bail. It is made clear that the observations made in this order are restricted to passing of this order and the trial court shall not be influenced by any of the observations made in this order.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 271 of 2020 registered at Nandgaon police station, Nashik, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)