

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

CRIMINAL BAIL APPLICATION NO.500 OF 2021

Madhav Trimbak Vaidya & Anr.	 Applicants
versus	
State of Maharashtra	 Respondent

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- Mr.Rameshwar N. Gite, Advocate for Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th MARCH, 2021

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No.179/2020 registered with Yevla Police Station, Nashik, under sections 307, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under sections 37(1) r/w 135 of the Maharashtra Police Act.
2. The Applicants were arrested on 17/07/2020 and since then they are in custody. The investigation is carried out and charge-sheet is filed.

3. Heard Mr.Rameshwar N. Gite, learned counsel for the Applicant and Mr.Ajay Patil, learned APP for the State.
4. The FIR is lodged by one Shankar Bhagaji Kandalkar on 28/06/2020. He has stated that he had given loan to Balu Gorane and Bandu Gorane of Rs.70,000/-. They were not returning that amount. On the date of incident at about 11.00 a.m. these two accused along with others came to the house of the informant with weapons like sticks, iron rods, axe etc. The FIR goes on to mention and describe the assault mounted by the accused Sachin Gorane, Balu Batase, Sanjiv Batase and Kakasaheb Batase etc. The FIR actually gives names of 15 persons besides mentioning five unknown persons who had also taken part.
5. Learned counsel for the Applicants submitted that the Applicants' names are not mentioned in the FIR. However, after two months, the informant has given supplementary statement when the Applicants were already arrested and in that

statement, the Applicants' names were mentioned. Their photographs were also shown to the informant.

6. There are in four injured including the first informant. The statements of injured Alkabai Bhagaji Kandalkar recorded in June 2020, does not mention the Applicants' name. The injured Bhagaji has given statement on 28/06/2020 and 30/06/2020. In the statement dated 30/06/2020, the Applicants' names are mentioned, but no roles are ascribed to them. He submitted that injuries suffered by the injured are not life threatening injuries. Therefore section 307 is not applicable.

7. Learned APP opposed this application and relied on the statement of injured eyewitnesses and their injuries. He submitted that accused were more in numbers and they were carrying deadly weapons and therefore they should not be granted bail.

8. I have considered these submissions. With the assistance of learned counsel, I have perused the charge-sheet.

9. As rightly submitted by learned counsel for the Applicant, their names are not mentioned in the FIR. Their names have surfaced only in the supplementary statement which was recorded after two months and that too after arrest of the Applicant. Injured Bhagaji in his supplementary statement, which is recorded two days after his first statement, has named them, but has not ascribed any role or weapon to them. Other injured Alkabai has not even named them. Statement of Machhindra Kandalkar is not in the charge-sheet.

10. The injury certificate shows that Machhindra has suffered two simple injuries on head and thigh. Alkabai suffered four injuries and fracture of left hand finger, which was described as grievous injury. Bhagaji suffered simple contusion on forearm and fracture of right hand ring finger. Shankar Kandalkar, the first informant, had suffered grievous injuries in the nature of fracture of right leg and left hand finger. Besides that he has suffered one simple injury on thigh.

11. Thus it can be seen that the injuries were not fatal and they were not life threatening injuries. The Applicants' involvement in the offense is doubtful as they are implicated belatedly in the supplementary statement. No specific role is attributed to them. The Applicants are already in custody since 17/07/2020. Therefore their further custody during entire course of trial, will not serve any purpose. They deserve to be released on bail.

12. Hence, the following order :

ORDER

- (i) In connection with C.R.No.179/2020 registered with Yevla Police Station, Nashik, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two each, sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)