

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

CRIMINAL BAIL APPLICATION NO. 579 OF 2021

Manoj Ramshakal Rai

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr.Hrishikesh Mundargi i/b. Mr. Akhilesh Singh, Advocate for the Applicant.

Mrs. M. R. Tidke, APP for the Respondent – State.

PSI-S.F. Kadam, Kolsewadi Police Station, Kalyan.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th FEBRUARY, 2021.

PC :

1. The applicant is arrested on 6th January, 2021 in connection with C.R. No. I-493 of 2020 registered with Kolsewadi Police Station, for the offences punishable under Sections 324, 323, 504, 506, 143, 147, 149 of Indian Penal Code, 1860 (“IPC” for short) and Sections 37(1) and 135 of Maharashtra Police Act, 1951.

2. The case of the prosecution is that on 14th August, 2020. The complainant learnt that board displayed in his name, on the property owned by him at 100 ft. road, opposite Krishna park, Tisgaon, Kalyan (East) was being removed forcibly by the applicant.

Hence, he proceeded to the place of incident. He was displaying his

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board., with the help of his workers. The applicant abused him and assaulted by fist blows. The workers were called by the complainant for displaying his board tried to intervene. However, associates of the applicant assaulted the complainant by iron rod on his legs, hand and back, which resulted in injury. The workers of the complainant were also assaulted by iron rod. The complainant was threatened of dire consequences. The statement of the complainant was recorded on 14th August, 2020 and the FIR was registered on 15th August, 2020.

3. Learned counsel for the applicant submitted that the applicant is the owner of the property in question. The complainant has no right, title and interest in the said property. The complainant always tries to obstruct the applicant. Construction work is going on. The applicant have filed suit in Civil Court and sought injunction against the complainant and others. The Civil Court had passed an order of injunction on 16th July, 2019 whereby the defendant No. 2 was restrained from creating obstruction over the subject land situated at Survey No. 40/4A. Learned counsel for the applicant submits that this is the same property, wherein the alleged incident had occurred and the defendant No.2 mentioned therein is the complainant. It is the case of the complainant that his worker were also present at the place of incident. Initially, the offences were

registered as stated above and after a period of about almost a month, Section 326 of IPC was invoked.

4. Learned APP submits that the supplementary statement of the complainant was recorded on 5th September, 2020 and in view of his statement as well as the injury certificate, Section 326 was invoked in this case.

5. It appears that, applicant is claiming his right, interest and title in the property. The injury certificate was issued on 15th August, 2020, is issued by a private hospital. Although, the certificate was issued purportedly on 15th August, 2020, Section 326 was invoked after a period of about one month from the date of incident. The applicant is presently in judicial custody. He was arrested on 6th January, 2021. Further custody is not required for investigation. In the light of the factual matrix of the case, further detention of the applicant, is not called for and bail can be granted on certain conditions.

6. Hence, I pass the following order.

ORDER

- (i) Bail Application No.579 of 2021, is allowed;
- (ii) The applicant is directed to be released on bail in

connection with C.R. No. I-493 of 2020 registered with Kolsewadi Police Station, on executing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or more sureties in the like amount;

- (iii) The applicant shall report the Investigating Officer once in a month on every first Saturday between 11.00 am. to 1.00 pm. till filing of charge-sheet;
- (iv) The applicant shall not tamper with the evidence;
- (v) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;
- (vi) Bail application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)