

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

CRIMINAL BAIL APPLICATION NO. 539 OF 2021

Pradeep Rathod
S/o Prakash Rathod & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

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Ms. Anjali Awasthi a/w. Mr. Kaif Ansari a/w. Ms. Kavita Rathod,
Advocate for the Applicants.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

PSI-Ambhore, Chembur Police Station.

PSI-Liman Peravi, Chembur Police Station.

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CORAM : PRAKASH D. NAIK, J.

DATE : 24th FEBRUARY, 2021.

PC :

1. This is an application for bail in connection with C.R. No. 2 of 2021, registered with Chembur Police Station, Mumbai, for the offences punishable under Sections 353, 354, 332, 323, 504, 509, 506, 188, 269 r/w. 34 of Indian Penal Code, 1860 ("IPC" for short). Sections 112, 117 of Maharashtra Police Act, 1951.

2. The case of the prosecution is that on 1st January, 2021 the complainant and others were on duty. During the patrolling, they were informed that some persons are fighting and people have gathered at Chembur camp. On receipt of this information, the complainant and other police personnel visited the place of incident.

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They noticed that four to five persons were shouting and creating ruckus. The complainant got down from the vehicle and enquired with them, as to why they are shouting and why they have formed assembly during the curfew period. At that time, one of the persons charged at the complainant and abused complainant and others. The accused abused the complainant and questioned her authority. She was pushed by hurling abuses. Other persons threatened the complainant and pulled her shirt by pushing her shoulder. The complainant then called the police for assistance. Thereafter, other police personnel reached the spot. Accused abused the complainant and others. One of them assaulted, gave a blow on the chest of women police constable and pushed the other constable. They kept on abusing the police party. The accused twisted fingers of one of the police constable. Accused were taken into custody. The complainant was abused in filthy language and intimidated. One of the police constable was assaulted with fist blow. The accused also threatened that action will be taken against the police by Advocate Kavita Rathod. The First Information Report (FIR) was registered. Applicants were arrested and since they are in custody.

3. Learned counsel for the applicants submitted that the false case has been registered against the applicants. They are in custody from 2nd January, 2021. The Senior Inspector of Chembur

Police Station, is enmically disposed of against the aunt of the applicants Smt. Kavita Rathod, who is an Advocate. Smt.Kavita Rathod has lodged complaint against the Senior Inspector of Police attached to the Chembur Police Station and during the enquiry, her statements were recorded. Even she has been implicated in this case. The accused was assaulted, which is evident from the medical certificate. The Court has refused to grant police custody after noticing that accused had complained about ill-treatment and assaulted. The learned Magistrate has directed that the accused be medically examined. Presently, applicants are in judicial custody. Further detention of the applicants is not necessary. There are no criminal antecedents against them. Applicant No.2 is student of law.

4. Learned APP submitted that the FIR attributes serious role to the accused. Conduct of the applicants was adamant. They abused, assaulted and intimidated the complainant and other police personnel. They also outraged modesty of one of the police constable. Looking into this nature of incidents, applicants may not be released on bail.

5. I have perused the documents on record. The incident had occurred on 1st January, 2021. The applicants were arrested on 2nd January, 2021. They are in judicial custody. Contention of the

applicants is that they are falsely implicated as the Senior Inspector of Police attached to Chembur Police Station, is hostile towards Advocate Kavita Rathod who is also implicated one of the accused in this case. The applicants have placed on record the statement of Advocate Kavita Rathod, recorded during the enquiry into complaint lodged by her. It is also contended that the applicant No.2 is law students and he had missed his law examination. Kavita Rathod had preferred an application for anticipatory bail, which has been allowed by the Sessions Court. It is also pertinent to note that the applicants are not having any criminal antecedents. Learned counsel for the applicants placed on record remand application and order passed by the remand Court. The Order dated 2nd January, 2021 passed by the learned Metropolitan Magistrate 67 Court Borivali, refers to the fact that, on 2nd January, 2021 arrested accused were produced before the Court. They complained about assault by police. Hence, medical examination is necessary. Remand Officer was directed to conduct medical examination of the accused. It appears that Prakash Rathod was medically examined and medical case papers were placed on record. In Order dated 2nd January, 2021 passed by the learned Magistrate it is mentioned that the accused were again produced before the Court at about 1.40 hours. The Court perused the medical report of accused and observed that there

is prima-facie substance in the complaint of the accused. The case diary was perused, the remand officer was heard. Advocate was also heard and it was observed that, taking into account the medical report, it is not proper to grant police custody. Hence, accused were remanded to judicial custody.

6. It is pertinent to note that the applicants are in custody from 2nd January, 2021. They are in judicial custody. Further detention is not necessary for any investigation. Hence on certain conditions, bail can be granted to the applicants.

ORDER

- i) Bail Application No. 539 of 2021, is allowed;
- ii) The applicants are directed to be released on bail in connection with C.R. No. 2 of 2020, registered with Chembur Police Station, on executing PR. bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or more sureties in the like amount;
- iii) The applicants shall not tamper with the evidence;
- iv) The applicants are permitted to furnish provisional Cash Bail Security in the sum of

Rs.20,000/- each for a period of eight weeks in lieu of surety;

- v) Leave to amend to correct the name of both the applicants. Amendment may be carried out forthwith;
- vi) The applicants shall report the concerned police station twice a month, on first Monday and Third Monday of month between 11.00 a.m. to 1.00 p.m. till filing of charge-sheet;
- vii) Bail Application stands disposed of accordingly;
- viii) This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)