

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.631 OF 2021**

Sambhaji @ Rohit Anna Bhosale .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Mr. Satyavrat Joshi i/b Mr. Nitesh J. Mohite for the Applicant.

Ms. Rutuja Ambekar, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 03RD AUGUST, 2021.

P.C:-

1. The Applicant is arraigned as an accused in C.R. No.743 of 2020 registered with Loni Kalbhor Police Station, Dist. Pune, which invokes offences punishable under Sections 307, 143, 144, 147, 148, 149, 452, 427 of the IPC and Section 4(25) of the Arms Act. In connection with the said crime, the Applicant is arrested on 13/10/2020 and, since then, he is incarcerated. The charge-sheet has been filed and, pursuant thereto, his application filed in the Sessions Court came to be rejected.

AJN

2. The Complainant is one Shankar Jedhe, who works as Manager with Bajaj Finance Company. He also has a business of Family Restaurant & Bar in partnership, which he attends at 8.00 p.m. onwards. On the date of the incident i.e. on 04/10/2020, when he was present in the restaurant along with the staff, it is alleged that the present Applicant along with other co-accused arrived at the hotel and ordered for liquor. His partner was on the counter and it is alleged that the Applicant suddenly started abusing and created ruckus by braking the articles, though requested repeatedly, he did not desist, which prompted the staff of the restaurant to throw him out. To take revenge of the aforesaid incident, the Applicant along with the co-accused, totalling 10-12 persons, again came to the said restaurant at 10.45 p.m. and they broke the glasses of various vehicles parked there and barged into the hotel. The Applicant assaulted the Complainant by scythe and it is stated by him that he assaulted him in his head and he took the blow on his right hand causing an injury. However, though he avoided the first blow, the Applicant is alleged to have again assaulted him in his head and, thereafter, when he fell down, other accused persons assaulted him by kicks and blows.

3. The injury certificate compiled in the charge-sheet depicts the following injuries.

- “1. *CLW over right parietal scalp size 2 x 5 x 0.2 cm.*
2. *CLW over right forearm flexor aspect size 6 x 4 x 2 cm. exposed bones cut tendons of flexor muscles.*
3. *CLW over right forearm exterior aspect size 1 x 0.5 x 0.2 cm.*
4. *CLW over left knee 4x0.5 cm superficial*
5. *Puncture wound over exterior forearm*
6. *Swelling and deformity of left forearm.”*

4. The certificate records fracture of left shaft of ulna and linear depressed fracture of right parietal bone of skull. The statements of the eye-witnesses are also compiled in the charge-sheet, who have specifically named the Applicant as assailant, who assaulted the Complainant resulting into injury. *Prima facie*, when a person is charged under Section 307 of the IPC, it is the knowledge on the part of the person that the said injury would result into his death is sufficient and, in the present case, the intention of the Applicant is very apparent that to take revenge of the first incident, he came back armed with a weapon and attacked the Complainant on his head knowing very well that he could have caused an injury which could have resulted in his death. In such circumstances, the ingredients of offence under Section 307 of the IPC is clearly made out. Considering the totality of the circumstances and the material compiled in the charge-sheet, the Applicant does not deserve to be released on bail.

5. Another reason for refusal to grant bail to the Applicant is the antecedents of the Applicant, to which learned A.P.P. has invited my attention to two C.Rs.; one being C.R. No.813 of 2018 registered with Loni Kalbhor Police Station invoking Sections 307, 323, 324, 143, 147, 148, 149, 504 and 506 of the IPC read with Section 4(25) of the Arms Act and under Section 37(I) read with 135 of the Maharashtra Police Act and the other being Crime No.564 of 2019 registered with Hadapsar Police Station, Pune for offences punishable under Sections 363, 364, 307, 143, 147, 148, 323, 341, 504, 506 of the IPC and under Section 4(25) of the Arms Act and under Section 37(I) read with Section 135 of the Maharashtra Police Act. This is another reason which compelled me to reject the present Application.

6. The Application is, thus, rejected.

[SMT. BHARATI DANGRE, J.]