

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1039 OF 2021

Dheeraj Madan Kambli

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sachin Dhakephalkar for applicant.

Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th April 2021

PC :

1. The applicant is arrested on 18th November 2020 in connection with CR No.337 of 2020 registered with Mahim Police Station for offences under Sections 307, 324, 354(B), 504, 188, 269, 270 r/w 34 of Indian Penal Code, Sections 4, 25 of Arms Act, Sections 37(1)(B) and 135 of Bombay Police Act and under Sections 2,3 and 4 of Prevention of Epidemic Disease Act. The FIR was registered on 18th November 2020.

2. The prosecution case is that the complainant is conducting hawking business on foot path. On 18th November 2020 the complainant was conducting his business. His wife and nephew were with him. The father of applicant abused the complainant. He pushed the wife of complainant and torn her dress. The father of complainant then assaulted the complainant with fist blows. The applicant came to the spot, armed with knife. He gave blow near the arm pit of complainant with knife, which resulted in bleeding. At

that time the wife of complainant and his nephew intervened. She caught the knife which resulted in injury to her hand. Complainant's nephew also sustained abrasion. The FIR was registered. Statements of eye witnesses were recorded. It was further alleged that another blow was given by the applicant by knife on the back of complainant.

3. The applicant and his father were arrested. The father of applicant Madan Kambli has been granted bail by this Court vide order dated 3rd February 2021.

4. The contention of the applicant is that on account of enmity between the complainant and the applicant, false FIR has been registered. The offence u/s 307 IPC is not made out. Investigation is complete and charge sheet is filed. The injury certificate issued by same hospital are contradictory. The applicant and his father had also sustained injuries. The medical evidence is contrary to the statements of eye witnesses.

5. Learned APP submitted that applicant was armed with knife. He has inflicted blow of knife on the complainant. Injuries are sustained by the complainant and his wife. The injury was in the nature of grievous. One more case was registered against applicant u/s 504, 323 of IPC with the same Police Station. Learned counsel for applicant, however, submits that the said complaint was registered at the instance of same complainant.

6. The applicant is in custody from 18th November 2020. Injury report dated 18th November 2020 refers to stab wound on left infra

axillary region which is grievous. The same hospital has issued another certificate dated 8th November 2020 which indicate that complainant had sustained injury on axillary region which is of simple nature. The wife of complainant had sustained injuries to her finger and wrist which is of simple nature. The record also indicate that applicant and his father had sustained injuries. The applicant had sustained four injuries which are in the nature of CLW with sharp object and injuries on shoulder occipital region etc which are of simple nature. The applicant's father who is co-accused has also sustained simple injuries which are reflected in the injury report.

7. The applicant is in custody from 18th November 2020. Charge sheet has been filed. Both sides appear to have been suffered injuries. Further detention of applicant is not necessary. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.337 of 2020 registered with Mahim Police Station, Mumbai, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of twelve weeks in lieu of sureties;
- (iv) The applicant shall report Mahim Police Station once in a month on every first Saturday between 11 am and 1 pm for a period of six months, and thereafter once in three months on first Saturday of the month between 11 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)