

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

CRIMINAL BAIL APPLICATION NO.1159 OF 2021

Salman Samshuddin Shaikh Applicant
Versus
The State of Maharashtra Respondent

Mr. Vinayak R. Patil, Advocate for the Applicant.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st APRIL, 2021
[Through Video Conferencing]

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.290/2020 registered at Shahapur police station, District-Thane on 2.8.2020 under Sections 307, 323, 325, 504, 506 read with 34 of the Indian Penal Code. The Applicant was arrested on 10.8.2020 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Shri Vinayak Patil, learned Counsel for the Applicant and Shri Ajay Patil, learned APP for the State.

3. The FIR is lodged by one Laxman Sadgir on

1.8.2020. He has stated that he was working with his other brother Ramnath Sadgir in a medical store of their elder brother Ashok Sadgir. They were knowing the main accused Mahesh Gaikwad. On 3.7.2020, Mahesh Gaikwad and his two unknown friends purchased some articles from the shop but they were reluctant to make payment. On this ground, there was a quarrel. Gaikwad and others were under influence of liquor. They abused the informant and his brother Ramnath. They also beat them with fists blows. On 31.7.2020 at about 11:00 p.m., both Laxman and Ramnath were returning home on their two-wheeler. At about 11:15 p.m., they were intercepted by another two-wheeler. One of the persons intercepting the informant and his brother gave a blow with sword on Ramnath's head. The informant was also assaulted with sword on his left palm. There were four persons. They were not named in the FIR, but, the allegations were made against them for causing assault on the informant and his brother Ramnath. On this basis, the FIR was lodged. The investigation was carried out and the Applicant was arrested.

4. Shri Patil submitted that the main accused Mahesh

Gaikwad is already granted bail by this Court (Coram: Prakash D. Naik, J.) vide order dated 30.3.2021 passed in Bail Application No.331/2021. He submitted that the Applicant's role is lesser than that of Mahesh Gaikwad. He further submitted that the injuries were not life threatening and the victims have not suffered serious damage to their health.

5. Learned A.P.P. opposed this application. He submitted that the offence is serious and blow was given on head of the victim Ramnath.

6. I have considered all these submissions and with the assistance of both learned Counsel, I have perused the charge-sheet annexed to this application.

7. The important statements in this case obviously are those of both the victims i.e. Ramnath and Laxman. Ramnath has given his statement on 13.8.2020. He has stated that during the incident, Mahesh Gaikwad assaulted him with sword on his head. The others accompanying Mahesh Gaikwad beat him with fist and kick blows. He did not know anything further because he had become unconscious.

8. There is another statement of the first informant Laxman, which is recorded on 19.10.2020. In that statement, he has stated that three other persons had taken part in the assault apart from Mahesh Gaikwad. Those three had covered their faces with masks. He has stated in this supplementary statement that during the scuffle their faces were uncovered and, therefore, he could see them. Laxman has identified the present Applicant in the test identification parade held on 26.8.2020. Laxman, in his FIR, had not mentioned that he has seen any of the assailants. However, he has improved his version in the supplementary statement. The informant has identified the Applicant as one of the assailants. However his FIR also shows that the assailants were unknown and that they had covered their faces with masks. Therefore, to that extent, his version is slightly doubtful. However, this will have to be tested during trial.

9. Apart from that, the injuries suffered by both the injured are important. The informant has suffered minor injuries on his little finger and palm of his left hand. The injury certificate in respect of Ramnath shows that there was left

temporoparietal extramural haematoma with non-displaced fracture of left parietal bone. This is a grievous injury though the first medical certificate issued by the Government Hospital shows that it was a simple injury. In any case that particular injury is attributed to the main accused Mahesh Gaikwad, who is granted bail by this Court, as mentioned earlier. Therefore, considering the lesser role attributed to the present Applicant, on the ground of parity the Applicant also deserves to be released on bail. Hence, the following order :

ORDER

- (i) In connection with C.R.No.290/2020 registered with Shahapur police station, District-Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)