

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1887 OF 2021**

Shri Ashok Joshi

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

Mr.S. A. Rajeshirke, Advocate for Applicant.

Mr. S. S. Pednekar, A.P.P. for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th JUNE, 2021

PC.

1. This is an application for bail in C.R. No. I-264 of 2020 registered with Shahapur Police Station, Dist. Thane for offences under Sections 307, 353, 333, 332, 341, 143, 147, 148, 149, 504, 506 & 427 of Indian Penal Code and Section 3 of the Prevention of Damage to Public Property Act, 1984. The FIR was lodged on 25th June, 2020.

2. The case of the prosecution is that on 24th June, 2020 the complainant and others were on duty. Information was received that the accused are involved in preparing illicit liquor. They noticed about 25-30 drums which are used in preparing liquor. The complainant and others were also accompanied by

home-guard who was knowing the accused. He gave names of the accused. The accused were armed with weapons like axe, sickle, iron rod, stone and wooden log etc. When they were accosted injured Santosh Humane was abused. Ashok (applicant) threatened Santosh Humane for giving information to the police. He was assaulted by axe. He fell in the river water. Ashok (applicant) again gave blow on his head by axe. He sustained injury on his head. The complainant tried to snatch the axe from the hands of Ashok. At that time axe fell down. Ashok (applicant) fell on the axe and sustained injury to his head. At that time Vishnu Chaudhari assaulted complainant by pelting stone which resulted in injury to his nose. Amol Chaudhari gave blow by wooden log on the head of the complainant which was evaded by him but the blow was given on his hand. As a result of which he sustained injury. Police team was threatened. Stones were pelted on the vehicles and damage was caused to vehicles. Co-accused were arrested on 13th August, 2020. On completing investigation charge-sheet is filed. Applicant was arrested on 3rd July, 2020.

3. The contention of the applicant is that the FIR is concocted. In fact applicant was assaulted brutally. He sustained injury to his head. He had undergone brain surgery. Learned counsel for the applicant relied upon the medical documents. He was treated in private hospital. The medical case papers were not provided to the said accused. It is further submitted that since he was assaulted, the villagers felt that he is dead and there was pelting of stones. Vishnu Choudhary and Amol Choudhari were granted bail by this Court.

4. Learned APP submitted that the offence is of serious nature. The public servants, who were on duty were assaulted by the accused Santosh Humane had sustained grievous injury. Applicant had assaulted by axe.

5. I have perused the documents on record. The medical certificate of complainant indicate that, he had suffered CLW on right knee and contusion over wrist as well as abrasion over nose. The injury certificate of Avinash Shirke refers to contusion over thumb. Santosh Humane had sustained head injury on the fronto parietal region and CLW over forearm as well as abrasion

to his ring finger and thumb impression. The case of the prosecution is that the complainant had sustained fracture to his nose. The submission of the learned counsel for the applicant is that the story is concocted. Applicant had sustained serious injuries. From the documents submitted by learned counsel for the applicant is apparent that the bills in relation to his treatment are produced. The photographs show stitches to his head. CT-scan report shows that the applicant had undergone surgery. The fact that the applicant had sustained injury is not disputed by the prosecution. It is pertinent to note that the FIR mention that the applicant had fallen on the axe and sustained injury. Said version is debatable. The applicant is in custody from the date of arrest.

6. The applicant has relied upon the CT-scan brain report which mentioned that large right temporoparietal extra luminal haematoma is noted measuring 2.2 cm in maximum width causing mass effect on the adjacent right lateral ventricle. There is an undisplaced fracture of the right squamous temporal bone. All the other accused are on bail. Considering the factual

matrix, bail can be granted to the applicant on stringent conditions. Hence, I pass the following order:

ORDER

- (i) Bail Application No. 1887 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-264 of 2020 registered with Shahapur Police Station, Dist. Thane on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not tamper with the evidence and shall not intimidate the witnesses.
- (iv) The applicant shall stay out of jurisdiction of Shahapur Police Station till conclusion of trial.
- (v) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer.
- (vi) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- (vii) The applicant is permitted to furnish provisional cash bail in the sum of Rs. 25,000/- for a period of 8 weeks in lieu of sureties.
- (viii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)