

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

CRIMINAL BAIL APPLICATION NO. 13 OF 2021

Mangesh Dyaneshwar Koditkar Applicant

Versus

The State of Maharashtra Respondent

Ms. Trupti Khamkar a/w. Saakshat Relekar for Applicant.
Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 480 of 2019 registered with Yerwada police station, Pune, on 03/07/2019 under sections 307, 323, 504, 143, 147, 148 r/w. 149 of the Indian Penal Code (for short 'IPC').

2. Heard Ms. Trupti Khamkar, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. The applicant was shown arrested in this case on 15/07/2019. The applicant was already in jail in connection with some other offence and the present incident had taken place in jail. The First Information Report (for short 'F.I.R.') is lodged by Shri. Gangadhar Wadane who was working at Yeravade Central Jail, Pune as Prison Officer. He has stated that, on 03/07/2019 in the morning at about 6:30a.m. some of the inmates of jail assaulted one Mohammad Jamal Nadaf. The assailants were, present applicant, Ganesh, Tushar, Deepak, Ajay and Shwetang. It is specifically mentioned in the F.I.R. that the applicant and Tushar used plastic bucket filled with water, accused Ganesh used stones, Deepak used broken plaster pieces, Ajay used stones and Shwetang used stones while assaulting Mohhamed Nadaf. He suffered many injuries on his face and head. He was removed to the hospital for his treatment and then F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the applicant's role is much lesser. He was arrested in this case on 15/07/2019 and since then he is in custody. The investigation is

over and the charge-sheet is filed. Further custody of the accused is not necessary.

5. Learned APP opposed this application on the ground that, injured had suffered many serious injuries and specific roles are attributed to all the accused. The applicant has one antecedent in the nature of offence under section 302 of IPC. Learned counsel for the applicant submitted that, he is granted temporary bail in connection with that offence.

6. I have considered these submissions and with the assistance of both learned counsel I have perused the charge-sheet. The F.I.R. gives description of the incident. The spot panchanama shows that there were buckets, blocks of cement and stones lying on the spot. There are statements of other witnesses who were inmates of jail who are Vikram, Vinod Jamdare and Mobin, but they have only described the incident. They have not named any of the accused, therefore, their statements cannot be used against the present applicant. There are statements of Jail officers namely

Balaji Shingde, Satyavan Dalvi and Bhaskar Gade. They have generally described the assault. No specific weapon or specific role is attributed to the present applicant. The injury certificate shows that the injured had suffered contusions and lacerated wounds over mid-forehead. He had suffered bleeding from his mouth and nose. There are injuries on his face and forehead. Only one injury is described as grievous injury which was in the nature of fracture of frontal bone.

7. Thus, at this stage, it appears that the injured had suffered one grievous injury. The applicant is not attributed role of causing that particular injury. He had used plastic bucket. The weapon was not deadly. There are general allegations against the present applicant. Therefore, bail can be granted to the present applicant. The co-accused Shwetang, who is similarly placed, is granted bail vide order dated 08/02/2021 passed by this court in Criminal Bail Application No. 787 of 2020, therefore, on the ground of parity also the applicant deserves to be released on bail. However, considering one more offence pending against him which

is serious in nature, some conditions are required to be imposed on him.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 480 of 2019 registered with Yerwada police station, Pune, 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 applicant shall attend the concerned police station once in a week for a period of one year from today.
- (iii) It is clarified that this order will be restricted to C.R.No.480 of 2019 registered with Yerwada police station. This shall not affect any other proceeding against the present applicant and he shall not take advantage of this order in other proceeding.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)