

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

CRIMINAL BAIL APPLICATION NO. 990 OF 2020

Vikas Sanjay Adagale

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Vikas B. Shivarkar, for the applicant.

Smt. J.S. Lohokare, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE :17th FEBRUARY 2021

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No. 690 of 2019 registered at Vakad Police Station, Pune on 18/06/2019 under Sections 307, 506(2), 323, 504 of the Indian Penal Code, under section 37(1) r/w 135 of Maharashtra Police Act and under section 4 r/w Section 25 of the Indian Arms act.

2. The prosecution case is about the assault committed by the present applicant on one Shivmurti Jakate. The FIR is lodged by his son Kiran. The prosecution story as mentioned in the FIR as

also in the statement of the injured Shivkumar is that between the night of 17.06.2019 and 18.6.2019, the injured Shivmurti had gone to sleep in front of a garment shop at around 12.30 a.m. The present applicant urinated on Shivmurti. Naturally Shivmurti got angry and questioned the applicant. It is alleged that the applicant went at some place and brought a sickle. The applicant started beating Shivmurti with kicks and fist blows and then gave blows on his head. Shivmurti held that sickle with his hand and raised shouts. Shivmurti's son Kiran, his friend Akash, Shivmurti's wife and daughter came there to help him. Applicant went away threatening the informant. On this basis the FIR is lodged.

3. The injured was taken to the hospital and was treated.
4. Heard Mr. Vikas Shivarkar, learned Counsel for the applicant and Smt. J.S. Lohokare, learned APP for the State.
5. Learned Counsel for the applicant submitted that he was arrested on 23/06/2019 and since then he is in custody. The charge-sheet is already filed. His further custody is not necessary. He submitted that the injured Shivmurti was not even admitted to the hospital and was immediately allowed to go home. This shows

that he had not suffered serious injuries. He submitted that offence under section 307 of IPC is not made out.

6. Learned APP opposed this application. She submitted that there were two injuries on the head of Shivismurti. Therefore offence punishable under section 307 of the Indian Penal Code is made out. She submitted that there are two other offences pending against the present applicant. These two offences are registered under section 324 of IPC at Wakad Police Station. They are from the years 2015-2016.

7. I have considered these submissions. The incident had occurred on 18/06/2019. The applicant was arrested on 23/06/2019. Investigation is over. At this stage, the occurrence of the incident and the applicant's participation cannot be doubted. The story given by the injured in his statement is sufficiently corroborated by his son, daughter, wife and son's friend. Their statements are consistent. However, the medical certificate shows that the injured had suffered three injuries. First was CLW on the frontal region having dimension of 2 cm x 1.5 cm x 1cm. Second was on parietal region having dimension of 3 cm x

0.5 cm x 0.1 cm. and the third one was on the base of right thumb. It was a small injury. Significantly, type of weapon was mentioned as hard and blunt.

8. At this stage there is nothing to infer that all these injuries were grievous. The applicant is in custody for over a long period and the trial is not likely to commence soon. Therefore, I am inclined to grant bail to the present applicant. Whether Section 307 of I.P.C. is made out or not, will have to be decided during the trial. The trial Court shall decide the trial without being influenced by the observations made in this order.

9. Hence the following order.

ORDER

- (i) In connection with C.R. No.690 of 2019 registered with Wakad 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 every fortnight for a period of one year from

today.

- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)