

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

CRIMINAL BAIL APPLICATION NO. 1211 OF 2020

Mohit Vishnu Gangurde Applicant

Versus

The State of Maharashtra Respondent

Mr. Amir Malik i/b. Jay & Co. for Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th JANUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.124 of 2019 registered at Pimpalgaon Baswant police station, Dist. Nasik, under sections 307, 326, 324, 232, 504, 506, 143, 147 r/w. 149 of the Indian Penal Code (for short 'IPC') and under section 37(1)(3) and 135 of the Maharashtra Police Act and under sections 4 and 25 of the Indian Arms Act. The applicant was arrested on 09/06/2020 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. The First Information Report (for short 'F.I.R.') was lodged by one Mahendra Salve on 04/12/2019 in respect of the incident which had taken place on 03/12/2019 at about 9:45p.m. He has stated in his F.I.R. that, at about 9:15p.m. he along with his friends were sitting in Bhagwat Beer Bar. His friend Bharat Gangurde received a phone call from the applicant. The applicant had expressed his regret about some quarrel which had taken place in the afternoon on that day. Bharat called the applicant near Bhagwat Beer bar. At about 9:45p.m. the applicant came there along with his companion Sandeep Gangurde, Roshan Gangurde, Nikit Gangurde, Laxman Gangurde, Akash Gangurde, Rahul Gangurde. They were accompanied by three other heavily built boys. The first informant was accompanied by Ashok Pathare, Vilas Gangurde and Rohidas Gangurde. After initial discussion, it escalated in a quarrel and then in a fight. It is alleged that the applicant suddenly brought a sword and tried to give a blow on Rohidas's neck. Rohidas evaded that blow but it landed on his right arm causing injury. Accused Sandeep gave a blow with an iron weapon on the face of one Ashok causing serious injury. Accused

Nikit assaulted Vilas with fists. On this basis, the F.I.R. is lodged.

3. Heard Mr. Amir Malik, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.

4. The learned counsel for the applicant submitted that, nature of the injuries shows that, they could be self inflicted injuries to falsely implicate the applicant and others. The nature of the injuries was described as simple when injured were examined in Government Primary Health Center. The injuries were given serious colour only when a certificate from private hospital was produced. He submitted that, section 307 of the IPC is applied only to keep the accused in custody for a longer period. He submitted that, considering the nature of injuries, sections 307 and 326 of IPC were wrongly applied. The applicant is in custody since 09/06/2020. His further custody is not required either for investigation purpose or for securing his presence during the trial.

5. The learned APP opposed this application. She submitted that the allegations in the F.I.R. are corroborated by the other companions of the first informant. Furthermore, these allegations are supported by injury certificates and injuries caused

to Ashok shows there was fracture and, therefore, sections are rightly applied. She submitted that the applicant attempted to give a blow with sword on Rohidas's neck and, therefore, attempt to commit murder on his part was clear.

REASONS:

6. With the assistance of learned counsel for the applicant and the learned APP, I have perused the charge-sheet. The allegations in the F.I.R. are corroborated by the other companions of the informant namely Bharat Gangurde and Arun Khairnar. The injured Rohidas, Vilas and Ashok have also corroborated this incident. Thus, it appears that there was some altercation and fight between two groups, however, the allegations in the F.I.R. appear to be highly exaggerated. The Provisional Injury Certificate given by the P.H.C. shows that Ashok had suffered simple C.L.W. on right side of his nose, Vilas had suffered simple contusion on the face and importantly, Rohidas had suffered simple C.L.W. of dimension half centimeter on his right upper arm and tenderness on his abdomen. These certificates issued by the Government P.H.C. indicate that the injuries were very minor in nature. The Medico

Legal Certificate issued by the private hospital shows that, Rohidas had suffered blunt trauma to his abdomen and blunt trauma to his right hand. The injury caused to Ashok showed fracture of maxillary sinus. At least this injury appears to be grievous, but Ashok's injury is not attributed to the present applicant. It is attributed to co-accused Sandeep Gangurde. Rohidas's injury does not appear to be grievous. Thus, it is extremely doubtful as to whether section 307 of IPC can be attracted in this particular case. Of course, this would be a matter of trial, but for the purpose of consideration of grant of bail the applicant has sufficiently made out a case for his release on bail during the pendency of the trial. The learned APP submitted that, there are some criminal antecedents against the present applicant. Therefore, some conditions are required to be imposed on the present applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.124 of 2019 registered at Pimpalgaon Baswant police station, Dist. Nasik, the applicant is directed to be released on bail on his furnishing PR bond in the

sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) The applicant shall attend the concerned police station once every fortnight for a period of one year from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)