

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2848 OF 2021

1. Ajay Vishnu Bhoir
2. Rohit Jaywant Bhoir
3. Sachin Baliram Pavashe
4. Wasim Aliahmed Khan .. Applicants

Vs.

The State of Maharashtra .. Respondent

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Mr. Munir Ahmed i/b Ms. Sushma T. Mishra for the Applicants.

Ms. A.A. Takalkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 13TH SEPTEMBER, 2021.

P.C:-

1. The incident, which took place on 14/03/2021 has its roots in the incident of 2010, when the Complainant and his associates faced a charge for murder of father of Applicant No.3 - Sachin Pavashe, though the trial resulted in their acquittal.

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2. It is alleged that to revenge the said act, the present incident took place on 14/03/2021. Complainant Pradip states that a religious function was ongoing when Applicant No.1 Ajay verbally abused him. He returned after sometimes along with Rohit (Accused No.2) and it is alleged that while Ajay was armed with a sword, Rohit was having a rusted iron rod in his hand. Before any explanation could be offered, the two started assaulting the Complainant. Ajay assaulted the Complainant causing an injury on his right finger and Rohit assaulted him by means of iron rod causing injury in his head. As far as Accused Nos.3 and 4 are concerned, who were described as unknown persons in the FIR and later on identified as the ones who accompanied Accused Nos.1 and 2, they are alleged to have assaulted the Complainant by fists and blows.

3. The Complainant was referred to Chhatrapati Shivaji Maharaj Rugnalay and the medical papers record "*tenderness present at proreimal phalymx of ring finger*". X-Ray reveals fracture. There are no other injuries which are noticed by the Municipal Hospital when the patient was examined. He was shifted to a private hospital, which has issued a certificate at page No.45, which includes 10 injuries of which, two injuries at occipital region and sub-occipital region being simple injuries. Two injuries are described as CLW over right little finger and fracture. The other injuries are bruises on knees, elbows, etc.

4. During the course of investigation, statements of various persons have been recorded, which include the statements of Rupesh, Dinesh, Viraj, Janardhan and Pooja, who have witnessed the incident and the said statements are in sync with one another. A specific role is attributed to Ajay, who has assaulted the Complainant by means of a sword and Rohit, who has mounted the assault by means of iron rod. Sachin and Wasim are attributed minimal roles of assaulting by fists and blows.

5. Perusal of the injury certificate would reveal that barring two injuries, which are grievous in nature, remaining injuries are simple in nature. In any case, in an offence under Section 307 of the IPC, the intention of the assailants is important rather than the nature of injury. Clear roles have been attributed to Accused Nos.1 and 2 as assaulting by means of weapons in their hands and for the roles, which is assigned to them in the charge-sheet, they will have to face the necessary consequences. However, for the present, since the investigation is over and Applicant No.1 is arrested on 22/04/2021 and Applicant Nos.2 to 4 are arrested on 28/06/2021, they are entitled to be released on bail subject to the stipulation that they shall not enter in the territorial jurisdiction of Thane District until the charge is framed and, in no way, create any hurdle in witnesses deposing in favour of the prosecution case. Hence, the following order:

: ORDER :

- (a) The Applicants – (1) Ajay Vishnu Bhoir, (2) Rohit Jaywant Bhoir, (3) Sachin Baliram Pavashe and (4) Wasim Aliahmed Khan, shall be released on bail in C.R. No.I-69 of 2021 registered at Shil-Diaghar Police Station, Thane on executing P.R. bond to the extent of Rs.20,000/- each and furnishing one or two sureties of the like amount.
- (b) The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicants shall not enter the territorial jurisdiction of Thane District until the charge is framed in the present C.R.
- (d) The Applicants, on their release, shall report to the Investigating Officer in the concerned Police Station on 16/09/2021, where they shall furnish their addresses of temporary residences outside Thane along with contact numbers and shall report to the police Station, where they would be residing, on the first Monday of every

month.

6. The Application is allowed in the aforestated terms.
7. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]