

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

CRIMINAL BAIL APPLICATION NO.1567 OF 2020

1. Prasad Hanamant Kadam
2. Pratik Surendra Pawar ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. Aniket U. Nikam i/b. Mr. Vivek Arote, Advocate for the Applicants.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 8th FEBRUARY, 2021

PER COURT:

1. The applicants are arrested in connection with C.R. No. I-67 of 2020 registered with Vishnunagar Police Station, Thane for offences under Sections 307, 326, 324, 141, 143, 144, 147, 148, 149, 504 & 506 of Indian Penal Code (for short “IPC”). The applicants were arrested on 14th March, 2020. The First Information Report (for short ‘FIR’) was lodged on 8th March, 2020.

2. According to complainant Hemant Bhoir along with others had attended Haldi Ceremony on 7th March, 2020. The accused were hostile due to previous dispute. They picked up quarrel with complainant. The complainant and others left the place of

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ceremony. Subsequently, accused accosted them. They were armed with weapons. Aditya Patil gave blow of sword on the nose of complainant and Ramya Mhatre assaulted by butt of Katta on his head. Kishor Mhatre, Akshay Patil @ Subhya, Avinash Mhatre and Sachin Mhatre assaulted Pramod Patil by stick. Akshay Patil gave blow of sword on the hip of Pramod Patil. Brother of complainant Milind Bhoir intervened. Prem Mhatre, Babu Mhatre, Bandu Bhandari, Dipesh Mhatre, Anil Mhatre, Prasad Kadam and Pratik Pawar (applicants) assaulted him by giving blows on his head, abdomen and back. Akshay and Ramya assaulted by giving forcible blows on the hands of Milind. All of them sustained serious injuries. Thereafter, supplementary statement of the complainant was recorded on 19th March, 2020. In the said statement he exonerated Babu Mhatre, Dipesh Mhatre and Anil Mhatre. He stated that after discussion with others it was revealed that they were not involved and their names were implicated out of misunderstanding. Thereafter, statement of Milind Bhoir and Pramod Patil were recorded. Even those witnesses had exonerated the aforesaid three persons. Statements of several other eye witnesses were recorded. On completing investigation, charge-sheet is filed.

3. Learned counsel for the applicant submitted that the applicants are in custody from the date of arrest. Investigation is

completed and charge-sheet is filed. The complainant had changed his version in his supplementary statement. Three persons who were attributed role of assault were exonerated. The other eye witnesses whose statements were recorded subsequently had also exonerated the aforesaid persons. It is further submitted that the eye witnesses including injured Milind Bhoir has also stated that accused other than Ramya Mhatre, Aditya Patil, Akshya Patil were armed with wooden stick and surprisingly role of assaulting by sword has been attributed to applicants. The statements mention that applicants were holding wooden stick. The co-accused Kishor Mhatre has been granted bail by this Court vide order dated 11th September, 2020. It is submitted that the prosecution is relying on antecedent of the applicant No.1. He was arrested in C.R. No.I-233 of 2019 and for lack evidence he was granted bail. The alleged injuries to the wrist of injured Milind were not attributed to the applicant.

4. Learned APP submitted that, accused were armed with weapons. All the three injured eye witnesses have attributed role to applicants. He has assaulted by sword. The injury Certificate of Milind Bhoir to whom the applicants had assaulted, sustained grievous injuries. He had sustained grievous injuries to his head and fracture to his wrist. The other injured persons had also sustained injuries. Milind Bhoir had suffered about 8 injuries.

5. On perusal of the statement of complainant and other injured persons it is apparent that, initially the role of assaulting Milind was attributed to several persons including the applicants. It is alleged that all of them jointly assaulted the injured. However, subsequently Babu Mhatre, Dipesh Mhatre and Anil Mhatre were exonerated. In supplementary statement it is stated that they were not participants in assault. On perusal of the statements of eye witnesses appears that they have stated that Aditya Patil and Akshay Patil were holding sword and others were holding bamboo sticks. Thus, the applicant was allegedly holding bamboo sticks. However, it was further alleged that all of them had assaulted by sword. Co-accused Kishor Mhatre has been granted bail by this Court. In the light of the factual aspects of this matter, further detention of the applicants are not necessary. Hence, I pass the following order:

ORDER

- (i) Bail Application No.1567 of 2020 is allowed;
- (ii) The applicants are directed to be released on bail in connection with C.R. No. I-67 of 2020 registered with Vishnunagar Police Station, Thane on executing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall stay out of jurisdiction of Vishnunagar Police Station, till further order.

(iv) The applicants shall inform their latest place of residence and contact details within 7 days after they are released from jail.

(v) The Applicants shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

(vi) The applicants shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.

(vii) The applicants are permitted to furnish cash security in the sum of Rs.25,000/- each for a period of six weeks in lieu of surety.

(viii) Application stands disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)