

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

[1] CRIMINAL BAIL APPLICATION NO.1630 OF 2020

Mando @ Vakil Tersingbhai
Bhabhor

.... Applicant

Versus

The State of Maharashtra

.... Respondent

WITH

[2] CRIMINAL BAIL APPLICATION NO.1731 OF 2020

Nana @ Nanu Agatrao Mandle

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Mahendra N. Sandhyanshiv, Advocate for the Applicant in
BA/1630/2020.

Mr. Govind B. Solanke, Advocate for the Applicant in
BA/1731/2020.

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

CORAM : SARANG V. KOTWAL, J.

DATE : 18th FEBRUARY, 2021

P.C. :

1. Both these Applications are decided by this common order because they arise out of the same incident and same offence. For the sake of convenience, the Applicants are referred to by their names.

2. The Applicants are seeking their release on bail in connection with C.R.No.166/2019 registered at Satana police station, District-Nashik on 24.9.2019 under Sections 395 and 511 of the Indian Penal Code.

3. The Applicant-Mando in Criminal Bail Application No.1630/2020 was arrested on 22.2.2020 and the Applicant-Nana in Criminal Bail Application No.1731/2020 was arrested on 15.1.2020. Since then they are in custody. The charge-sheet is already filed.

4. Heard Shri Mahendra Sandhyanshiy, learned Counsel for the Applicant in Bail Application No.1630/2020, Shri Govind Solanke, learned Counsel for the Applicant in Bail Application No.1731/2020 and Smt. J.S. Lohokare, learned APP for the State.

5. The FIR is lodged by one Shubham Gunjal, who was working as a Security Personnel in K.D. Bhalerao English Medium School, Lakhamapur. On 24.9.2019, at about 3:30 a.m., seven accused came there. All of them had covered their

faces with cloths. They gave blows with sticks. They tried to rob him. There was an associate Rajgiri with the first informant. He was caught hold of and beaten. The informant started shouting and resisting. He received some help in the form of other employees of the school who were residing nearby. The accused ran away from the spot pelting stones towards the first informant. The informant has stated that during the scuffle he removed the masks of at least three persons and he was in a position to identify them. On this basis, the FIR is lodged under Sections 395 and 511 of IPC.

6. Learned Counsel for the Applicants submitted that the offence is false and they were falsely implicated. Nothing was stolen and no serious injuries are caused. Therefore, the Applicants deserve to be released on bail.

7. Both learned Counsel for the Applicants submitted that the Applicants are willing to furnish local solvent sureties in this case.

8. Learned A.P.P., on the other hand, opposed these

Applications. She submitted that both these Applicants were identified in the test identification parade by the first informant. She submitted that the Applicants have criminal antecedents and some of the offences are committed in the Gujarat State. She, therefore, opposed grant of bail to them.

9. I have considered all these submissions. With the assistance of learned Counsel for the parties, I have perused the charge-sheet. The charge-sheet contains memo of test identification parade. The informant had identified the Applicant-Mando in the test identification parade held on 24.2.2020 and he had identified the Applicant-Nana in the parade held on 7.2.2020. Therefore, at this stage, there is some material with the prosecution against the present Applicants.

10. However, there is also substance in the submissions of learned Counsel for the Applicants that the incident had occurred in the early morning hours and there was darkness all around. Therefore, it was difficult to fix

identity of the assailants. The offenders had covered their faces with masks and only in the scuffle the cloth was removed. Therefore, it is rather difficult to place much reliance on such identification parades. However, that would be a matter of trial; and at this stage, it cannot be observed that the identification is vitiated. But looking at the backdrop of this case, when the offenders had not caused serious injuries and had not assaulted the first informant on vital parts, some leniency can be shown to them. The medical certificates show that the informant and his companion had suffered blunt traumas. Those were simple and minor injuries. Nothing was stolen. Therefore, considering their long period of detention in custody in this case, I am inclined to grant bail to the Applicants.

11. Learned A.P.P. has raised the issue of their antecedents. In this context, certain conditions can be imposed on the Applicants. Hence, the following order :

ORDER

- (i) In connection with C.R.No.166/2019 registered at Satana police station, District-Nashik, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with two local solvent sureties each in the like amount.
- (ii) The Applicants shall attend the concerned police station once every month for a period of one year from today.
- (iii) The Applications stand disposed of accordingly.

Digitally
signed by
Pradeepkumar
P. Deshmane
Date:
2021.02.22
12:50:04
+0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)