

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

CRIMINAL BAIL APPLICATION NO.1714 OF 2020

Mangesh Kiran Gaikwad & Ors. ...Applicants

versus

State of Maharashtra Respondent

.....

- Mr.Vaibhav D. Kadam , Advocate for Applicants.
- Mr.Ajay Patil, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.

DATE : 11th JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No.I-32 of 2020 registered with Nashik Taluka Police Station, Nashik for the offence punishable under sections 307, 324, 447, 143, 147, 148, 149, 109, 336, 323, 504, 506, 427, 188 of the Indian Penal Code. The Applicants were arrested on 28-5-2020 and since then they are in custody.
2. Heard Mr.Kadam for the applicants and Mr. Patil, learned APP for State.

3. As stated by the first informant, there was enmity between two groups. On 24-5-2020 at about 8.30 p.m. quarrel started on a petty issue. At that time accused and their group came near the informant with weapons like axe, stick and iron rod. FIR mentioned that assault was made with axe on the informant's head. Accused Mangesh Gaikwad assaulted with axe on the informant's son Amol on his head. Applicant No.1 gave blow with axe on informant's father Ramdas. Others assaulted with sticks.
4. Learned counsel for the applicants submitted that the medical certificate described injuries as simple injuries and offence under section 307 of the IPC is not made out. Applicant No.1 is of 21 years and the Applicant No.2 is a senior citizen aged 68 years. The applicants are in custody since 28-5-2020. No further purpose will be served by keeping them in custody.
5. Learned APP submitted that the Medical Papers show that the injuries were not simple and one of them is skull fracture. Looking at this, it will not be safe to release the applicants on

bail.

6. I have considered the submissions. With the assistance of both the learned counsel, I have perused the charge sheet. There are statements of eye witnesses including injured eye witnesses viz. Hirabai Ashok Potinde, Deepak Shivaji Kadale, Pawan Potinde, Ramdas Dagdu Potinde. All of them have narrated the incident as described in the FIR.
7. The injury certificate issued by the Civil Hospital, Nashik shows that Amol Ashok Potinde had suffered one simple CLW on occipital bone having dimension of 6X3X2 c.m. Ramdas Potinde had suffered CLW on Parietal Bone Centrally having dimension of 6X3X2 cm and on left side of Parietal Bone having dimension of 4X2X2 c.m. They are described as simple injuries. Thus, the medical certificate issued by Government Hospital shows that the injuries were simple injuries. However, the certificate issued by Sudarshan Hospital, Nashik shows that there was cerebral concussion suffered by all the three injured and Ramdas has suffered un-displaced fracture along with left high fronto-parietal suture. From the narration of the incident,

it is clear that all the applicants were having weapons and only one blow was given to each injured. Medical certificate of Civil Hospital shows those injuries as simple.

8. At this stage, doubt is created as to whether the applicants had any intention of committing murder of injured persons. It could be a lessor offence than that u/s 307 of IPC. The applicant No.1 is a young boy and the applicant No.2 is a senior citizen. Investigation is already over. No further purpose will be served by detaining the applicants in jail. The offence has not escalated to higher degree. Therefore, I am inclined to grant bail. However, to take care of the apprehension expressed by the learned APP some conditions will have to be imposed.

9. Hence, the following order :

ORDER

- (i) In connection with C.R. No.I-32 of 2020 registered with Nashik Taluka Police Station, Nashik the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the

like amount.

- (ii) In the prevailing circumstances, it may not be possible for the applicants to furnish sureties. Therefore, applicants are permitted to furnish cash bail of the same amount each for a period of three months from today during which time they will have to furnish surety as directed in the previous clause.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)