

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3104 OF 2021**

Ramnarayan Rajendra Jaiswal ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Nitin Sejpai a/w Mrs. Pooja Sejpai a/w Akshata Desai, for the Applicant.

Mr. H. J. Dedhia, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 30th November, 2021.

PRONOUNCED ON : 14th December, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 271 of 2020 registered with Nandgaon Police Station, District- Nashik for the offences punishable under Sections 307, 324, 323, 143, 144, 147, 148, 149, 452 of the Indian Penal Code.

2 It is the case of prosecution that informant, at the relevant time, was live-in-relationship with injured Bhushan Macchindra Aher.

According to her, three years ago on account of election in the village a quarrel had taken place between injured and the accused persons.

3 On 26/05/2020 at about 10-30 a.m., the informant and said injured were sitting in the hall, all of a sudden accused Shailesh Chhagan Nemane, Vaibhav Sudhakar Parkhe, Ramnarayan Rajendra Jaiswal (applicant), Yuvraj Sudhakar Parkhe, Nilesh Chhagan Nemane, Lakhan Balasaheb Parkhe and two-three unknown persons entered into the house. It is alleged that accused Shailesh Chhagan Nemane, Vaibhav Sudhakar Parkhe and applicant gave blows of sickle on the head of the injured. Other accused, namely, Yuvraj Sudhakar Parkhe, Nilesh Chhagan Nemane, Lakhan Balasaheb Parkhe and two-three unknown persons also entered into the house. Accused Yuvraj Sudhakar Parkhe and Nilesh Chhagan Nemane gave blows of iron rod while accused Lakhan Balasaheb Parkhe gave blows of a wooden log on the head, back, hands and legs of the injured. Even the informant was also assaulted. When the villagers gathered all accused fled away.

4 Mr. Sejpal, learned Counsel for the applicant, submits that out of the said accused, two accused, namely, Lakhan Balasaheb Parkhe and Yuvraj Sudhakar Parkhe have already been released on bail by this

Court. Learned Counsel then invited my attention to the injury certificates pertaining to the informant and injured Bhushan Macchindra Aher and would submit that the injury was not life threatening. Investigation is over. There are no criminal antecedents. No useful purpose would be served by keeping the applicant behind the bar, argued learned Counsel.

5 Per contra, Mr. Dhedia, learned APP, opposed the submissions by contending that the FIR and the statements of prosecution witnesses clearly point out the specific role played by the each and every accused. The injured had sustained grievous injury because of the blow of sickle given by the applicant. As far as the other two accused, who are released on bail are concerned, no parity can be claimed by the applicant, argued learned APP.

6 Perused investigation papers. I have also gone through the orders of the bail passed in favour of the applicant Lakhan Balasaheb Parkhe and Yuvraj Sudhakar Parkhe.

7 From the FIR and the statement of injured it is seen that he was assaulted by the applicant by means of a sickle on his head whereas the

accused on bail, namely, Lakhan Balasaheb Parkhe had given blow of wooden log while another accused Yuvraj Sudhakar Parkhe, who is also on bail, had assaulted on the head by means of iron rod. Thus, as far as the weapons are concerned, definitely there is difference in the use of weapons.

8 The injury certificate pertaining to the injured shows that there were CLW over scalp and was caused by means of a sharp weapon resulting into the grievous injury. This sharp weapon can be attributed to the role of the present applicant whereas there were other two grievous injuries caused by means of hard and blunt object on the metacarpel and proximal pharynx. Both were fractures. Thus, the iron rod and wooden log which were used by those two accused, namely, Lakhan Balasaheb Parkhe and Yuvraj Sudhakar Parkhe were necessarily hard and blunt object.

9 Even if it is that the different weapons were used but the fact remains that the injury was on the vital part of the body and it was caused by hard and blunt object and sharp weapon. At the same time, there is no evidence on record to suggest that these injuries were life threatening injuries. Similarly, the informant had sustained injuries but

those injuries were simple in nature.

10 Since the applicant and other accused are charged with Section 149 of the IPC, each of them would be equally responsible for commission of offence, if at the end of the day their guilt is proved. The investigation is completed. No antecedents are forthcoming. This being so, I do not find any justification as to why the benefits of earlier orders should not be extended in favour of the applicant. The applicant is, therefore, liable to be admitted on bail on following conditions.

ORDER

(i) Applicant-Ramnarayan Rajendra Jaiswal shall be released on bail in C.R. No. 271 of 2020 registered with Nandgaon Police Station, District- Nashik on his executing P .R. bond in the sum of Rs. 20,000/- with one or more sureties in like amount.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(iii) The applicant will not enter the jurisdiction of Nandgaon Taluka till the charge is framed.

(iv) The applicant shall convey his residential address during the aforesaid period along with contact number and intimate the Investigating Officer of the change, if any.

(v) The applicant shall attend the trial regularly.

(vi) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(vii) Bail before the trial Court.

(viii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)

REKHA
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