

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3416 OF 2021

1) PRAKASH @ PAPPU MARUTI POKHARKAR)
2) JALINDER GANPAT POKHARKAR)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sudeep Pasbola a/w. Mr.Karl Rustom Khan i/b. Mr.Ayush
Pasbola, Advocate for the Applicant.

Mr.AA.Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 17th NOVEMBER 2021
PRONOUNCED ON : 26th NOVEMBER 2021

P.C. :

1 The present application has been moved by the
applicant under Section 439 of the Code of Criminal Procedure in
Crime No.131 of 2021 registered with Police Station Haveli, Pune
(Rural), for offences punishable under Sections 143, 147, 148,

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149, 452, 307, 354, 363, 504, 506, 427 of the Indian Penal Code (IPC), under Sections 3 and 27 of the Arms Act and under Section 135 of Maharashtra Police Act.

2 It is the case of prosecution that elections of Khed Panchayat Samiti was held four years ago and in all 14 members were elected and they consisted of 4 members of Rashtrawadi Congress Party (NCP), 8 members of Shivsena, and one each belonging to Bharatiya Janata Party and Congress Party. Since Shivsena Party was in majority, it was decided that member of the said party would be elected as President for three months / six months. Accused Bhagwan Pokharkar (applicant no.1) was elected as the President and his tenure was to end on 31st December 2020.

3 The prosecution then contends that on 24th May 2021, all the members moved a no confidence motion against applicant no.1 Prakash Pokharkar which was to be decided on 31st May 2021. However, the members of Rashtrawadi Party,

Bharatiya Janata Party and Shivsena apprehended misbehaviour from Prakash Pokhrankar and therefore, they went to stay at Wildernest Hotel at Khadakwasla, Dhonje.

4 The prosecution then alleges that on 27th May 2021 at about 5.00 a.m., three four wheelers arrived at the hotel and there were about 15 to 20 persons in the said vehicles. They were armed with iron rods, sticks, swords, knives etc. They broke open the gate of the hotel, barged inside the hotel rooms and assaulted the informant and other persons who were present in the hotel. Accordingly, First Information Report (FIR) came to be lodged.

5 Mr.Sudeep Pasbola, learned counsel for the applicant, submits that while lodging the FIR the name of applicant no.1 was not revealed. The learned counsel then invited my attention to statement of Ganesh Shantaram Jadhav who stated the role of the present applicant. The learned counsel then invited my attention to the Injury Certificates produced on record and

submitted that most of the injuries were simple in nature. Investigation is completed. There are no criminal antecedents and in such circumstances, the applicants deserve to be released on bail.

6 Mr.Palkar, learned APP, opposed the submissions by contending that there is sufficient evidence on record to show involvement of applicants in the offence. According to the learned APP, Jalinder Pokharkar i.e. applicant no.2 was holding iron rod which he had used while assaulting the informant and others. There being no merit in the application, the same is liable to be rejected.

7 Perused the investigation papers. The statement of Ganesh Shantaram Jadhav clearly shows that the applicant no.2 had used only fist and kick blows. However, there is no reference to the role of applicant no.1. Even otherwise, after having gone through the Injury Certificates, it appears that prosecution witnesses, namely, Santosh Ankush Gavhane, Jaypal Rambharosi

Yadav, Santosh Maruti Sandbhor and Swapnil Prakash Chaudhari had sustained simple injuries whereas the informant had sustained fracture on the proximal phalanx of little finger. Similarly, prosecution witness Tushar Kailas Kalje had sustained fracture injury, namely, proximal phalanx of left index finger.

8 Having regard to the material on record and nature of injuries, in my considered opinion, applicants have made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant no.1 Prakash @ Pappu Maruti Pokharkar and Applicant No.2 Jalinder Ganpat Pokharkar shall be released on bail in Crime No.131 of 2021 registered with Police Station Haveli, Pune (Rural), on their executing PR.Bond in the sum of Rs.25,000/- each and on furnishing one or two sureties in like amount, by each of them.
- (ii) The applicant shall not tamper with prosecution evidence.

- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)