

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

BAIL APPLICATION NO. 3879 OF 2021

Bhagwan Narayan Pokharkar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Sudeep Pasbola a/w. Mr. Karl Rustomkhan i/b. Mr. Ayush Pasbola for the Applicant.

Mrs. P.P.Shinde, APP for the Respondent -State.

Mr.Netajee Gandhore, API, LCB Pune Rural present.

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CORAM : V.G.BISHT, J.

RESERVED ON : 22ND NOVEMBER, 2021

PRONOUNCED ON : 4TH DECEMBER 2021

PC:-

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 Haveli Police Station, Pune Rural for offences punishable under Sections 143, 147, 148, 149, 452, 307, 354, 363, 427, 504 and 506 of the Indian Penal Code (the IPC), Sections 3 and 27 of the Arms Act and Section 135 of the Maharashtra Police Act.

2. The prosecution case in short is that, on 27th May, 2021 at about 5.00 am, the accused, namely, Bhagwan Narayan Pokharkar (applicant), Jalindar Narayan Pokharkar, Keshav Aargade and their 15 to 20 workers reached at Hotel Wilderdest. They were annoyed about no confidence motion passed against the applicant in Gram Panchayat Samiti. The prosecution further alleges that all the above said accused were armed with iron rod, sticks, khanjeer like knife and pistol and assaulted informant and others. They also molested a woman, who was a member of Gram Panchyat Samiti and her husband. Later on, informant lodged the First Information Report (FIR).

3. Mr.Pasbola, learned Counsel for the applicant, submits that the incident in question took place out of political rivalry and that is why the applicant and others have been falsely implicated. Learned counsel invited my attention to the statements of the prosecution witnesses, namely, Tushar Kailas Kalje, Bajrang Shivaji Choudhary and Ganesh Shantaram

Jadhav. According to learned Counsel, though the prosecution witness, namely, Ganesh Jadhav claims that he was assaulted by the applicant by means of reverse side of sickle on various parts of the body but no medical certificate is forthcoming to substantiate the injuries. Investigation is completed. The charge-sheet has already been filed. In such circumstances, the applicant deserves to be released on bail.

4. Mrs.Shinde, learned APP, on the other hand, has also referred the statement of same eye witness as is referred by learned Counsel for the applicant. According to learned APP, not only the applicant instigated others to assault informant and others but he also assaulted the prosecution witness, namely, Ganesh Jadhav. There being no merit in the application, same is liable to be rejected.

5. Perused investigation papers. I have also carefully gone through the statements of said prosecution witnesses.

6. The statement of Tushar Kalje is quite general in nature and in the statement it is alleged that the applicant along with Jalinder Pokharkar had assaulted him and others including the woman member of Gram Panchayat Samiti. However, it is not made clear in what manner and by what weapon they were assaulted.

7. The next statement is that of Bajrang Choudhary, who stated in his statement that the applicant and others had entered into hotel and applicant was exhorting others to break open the door and not to spare anybody. His statement also lastly shows that the present applicant along with others had assaulted this witness and others. This is again very vague statement without any necessary details.

8. Lastly, the statement of Ganesh Jadhav shows that he was assaulted by applicant on his back and hands by means of reverse side of sickle. Further, according to him, when his wife intervened, she was also assaulted. Although, it is alleged that the applicant had assaulted this witness on his

back and hands by means of reverse side of sickle but no medical certificate is forthcoming to substantiate injury, if any, suffered by him.

9. Having regard to the material on record and the fact that the investigation is completed, no useful purpose will be served by keeping the applicant behind the bars.

10. In view of above, I am inclined to allow the application. Hence, the following order :

ORDER

(i) Applicant- Bhagwan Narayan Pokharkar shall be released on bail in C.R. No. 131 of 2021 registered with Haveli Police Station, Pune on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two local surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court proceedings regularly.

(iv) Bail before the trial Court.

(v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vi) The application is allowed in the aforesaid terms.

(V.G.BISHT, J.)