

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3554 OF 2019

Sagar Ramnath Holgir .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Kalpesh Patil for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 28RD JUNE, 2021.

P.C:-

1. The Applicant was arrested on 20/09/2019 being indicted as Accused No.1 in C.R. No.I-82 of 2018 registered with Kasara Police Station. The Complainant is the brother of injured Nitin, who lodged a complaint on receipt of a phone call from his cousin sister Jayashree that she received an information from Kasara Police Station that Nitin was assaulted by one unknown person, causing injuries to his face and he was taken to Shahapur Sub District Hospital. From Shahapur Hospital, he was taken to Wockhardt Hospital and was administered medical treatment in ICU. The complaint was made against one unknown person.

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The victim was subsequently transferred to J.J. Hospital for treatment on 11/09/2018 for the purpose of offering medical assistance.

2. The victim is one Nitin, whose statement came to be recorded on 15/10/2018. He narrated the happenings of 08/09/2018, when he decided to proceed to Igatpuri and arrived at Kasara Railway Station, he was in search of a taxi at about 9.25 p.m. The taxi driver is the present Applicant, who agreed to ply him to Igatpuri. As per the victim, at that time, a person acquainted to him, by name, Ravi Pandit (co-accused) also arrived at the spot and gave a proposal to have beer on the pretext that they had met after a gap of time. The victim states that he approached the taxi, which was driven by the Applicant and as he felt sleepy, he realized that the taxi was going towards Mumbai side, when it passed Vashi Patha. He enquired as to why the taxi was going by that side and he was informed by Ravi Pandit that it was for having beer since beer shops at Igatpuri were shut. The victim states that the car halted by the side of the road and Ravi Pandit got down from the car under the pretext of urinating and the Applicant pulled him out of the car. The further allegation is that Ravi Pandit assaulted him in his head by means of iron slab, which resulted into an injury. He fell unconscious and regained conscious when he was in J.J. Hospital.

3. The medical report referred to two CLW over the left forehead. The patient was referred to C.T. scan and to the specialist and the medical report further reveals that the injured was in a very bad condition and multiple operations were required to be performed and this treatment required a long hospitalization. The injury has been described to be grievous injury and the diagnosis was Facial Bone Fractures. No doubt, the injury suffered are grievous injuries caused by a dangerous weapon but as per the narration of the victim himself, the same is attributed to the co-accused Ravi Pandit and not to the Applicant. The Applicant was driving the car in which the injured was plying, on the pretext of going to Igatpuri and, taking advantage of the wee hours of the night, Ravi Pandit assaulted him by means of iron slab, injured him and the allegation is that he was duped of his golden ornaments. Going by the case of the prosecution, the victim or witnesses do not attribute any overt act on the part of the Applicant and the three injuries are attributed to Ravi Pandit, as the victim has categorically stated that he was assaulted by Ravi Pandit on his face and the medical report corresponds to the said version. The case of the prosecution is that the Applicant was present with Ravi Pandit all the while when the incident took place and, that is why, Section 34 of the IPC was invoked while filing the charge-sheet.

4. *Prima facie*, going by the version of the victim, the Applicant is not responsible for the grievous injuries caused to

him nor there is any material compiled in the charge-sheet to that effect. His mere presence at the spot when the assault took place would rope him with the aid of Section 34 of the IPC and this would be determined at the time of trial. Since the investigation is complete and the charge-sheet is filed, and the Applicant is incarcerated from 20/09/2019, he need not be detained any further. No antecedents are reported against the present Applicant. I feel no hesitancy in releasing the Applicant on bail, having regard to the *prima facie* allegations levelled and the material compiled in charge-sheet. The Applicant is released on bail subject to the following conditions. The observations made above are *prima facie* in nature limited only for the purpose of grant of bail and the Trial Court should not be influenced by any of the aforesaid observations.

: ORDER :

- (a) The Applicant – Sagar Ramnath Holgir shall be released on bail in C.R. No.I-82 of 2018 registered with Kasara Police Station on executing P.R. bond in the sum of Rs.25,000/- and furnishing at least one local surety in the like amount.

- (c) The Applicant shall not directly or indirectly

make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

- (c) The Applicant shall present himself before the Kasara Police Station once in every week between 10.00 a.m. and 1.00 p.m. till framing of the charge. After framing of the charge, the Trial Court is at liberty to modify the said condition by asking the Applicant to mark his presence in the Trial Court as and when directed.

5. The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)