

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**953 CRIMINAL APPLICATION NO.1471 OF 2022
IN CRIMINAL APPEAL NO. 325 OF 2022**

1. Ranjit S/o. Abhaysingh Rathi
2. Abhaysingh S/o. Balwantsingh Rathi
3. Sandip S/o. Rakesh Rathi

VERSUS

The State of Maharashtra and ors.

Mr. N. B. Narwade, Advocate for the applicants
Mr. S. J. Salgare, APP for the respondent/State
Mr. S. E. Shekade, Advocate for respondent No. 2.

WITH

**CRIMINAL APPLICATION NO.1492 OF 2022
IN CRIMINAL APPEAL NO. 333 OF 2022**

Gopinath s/o Rambhau Gahile

VERSUS

The State of Maharashtra and ors.

Mr. R. R. Karpe, Advocate for the applicant
Mr. S. J. Salgare, APP for the respondent/State
Mr. S. E. Shekade, Advocate for respondent No. 2.

**CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.**

DATED : 12th July, 2022

P. C.:-

1. Both these applications are decided by this common order because they arise out of the same impugned judgment and same sessions case. Wherever necessary the applicants are referred to by their names.

2. All the applicants were convicted by the Additional Sessions Judge, Ahmednagar vide the judgment and order dated 16th April, 2022 passed in Sessions Case No. 303 of 2014. All the applicants were on bail during trial and after their conviction they were taken into custody. By the impugned judgment the applicants were convicted for commission of offences punishable under Sections 307, 326, 324, 323 read with Section 34 of the Indian Penal Code.

3. Applicants Ranjit Abhaysingh Rathi, Sandip Rakesh Rathi and Gopinath Rambhau Gahile were also convicted under Section 324A read with Section 34 of the IPC and under Sections 7 and 8 of POCSO Act. The maximum sentence was imposed for commission of offence punishable under Section 307 read with Section 34 of the IPC besides the sentences imposed for other

offences. All the sentences were directed to run concurrently and benefit of set-off was given.

4. The sessions case arose out of investigation into the CR No.I-40/2014 registered with Nagar Taluka Police Station, Dist. Ahmednagar.

5. Heard Mr. Narwade, learned counsel for the applicants in Criminal Application No. 1471 of 2022, Mr. Karpe, learned counsel for the applicant in Criminal Application No. 1492 of 2022, Mr. Salgare, learned APP for the respondent/State and Mr. Shekade, learned counsel for respondent No. 2.

6. Learned counsel for the applicants submitted that the offence has not escalated to higher degree and therefore, leniency should be shown. They also submitted that it is not clear as to who had actually given blow with iron rod causing grievous injury.

7. Learned counsel for respondent No.2 as well as learned APP opposed these applications. They submitted that looking at the nature of injuries and also taking into consideration the fact that all

the accused had come together with weapons. They are all responsible for committing this offence.

8. We have considered these submissions. The incident took place on 26th February, 2014. The houses of the victims, the witness Rupali Wagh and the accused were adjacent to each other. There was some dispute between PW-1 Rupali and applicant Sandip in respect of taking water from water tanker. On the day of incident, at about 10.00 a.m., one water tanker reached near the house of the applicants and there was some quarrel between the applicant Sandip and PW-1 Rupali Wagh. It is alleged that Sandip, Ranjit and one unknown person tore her clothes and outraged her modesty. She was a minor at that time. On hearing her shouts, one of the victims Rajkiran who was a neighbor came there. He tried to intervene. PW-1 has stated that those applicants returned back with wooden logs and iron pipes. Applicant Ranjit was having an iron pipe, Sandip was having a wooden log. They assaulted Rajkiran. He suffered injuries. His brother Ravikiran and mother Mandakini came to rescue them but they were also assaulted. Rajkiran was seriously injured and he was

taken to his house. After that applicant Abhaysingh, Ranjit and Sandip again assaulted Ravikiran, Rajkiran and Mandakini by means of wooden logs. According to PW-1, the applicant Abhaysingh was having a hockey stick. On this basis FIR was lodged, investigation was carried out.

9. During trial, the four injured witnesses were examined. They were PW-1 Rupali Wagh, PW-7 Ravikiran, PW-9 Rajkiran and PW-10 Mandakini. Their evidence is more or less consistent. However, the important evidence is that of PW-9 Rajkiran because he has suffered grievous injury on head. He has narrated the incident in the same manner as is narrated by PW-1 Rupali. But he has stated that Ranjit beat him with iron pipe. Sandip, Gopinath and Harshkumar assaulted with wooden log. He received bleeding injury on his head. When he was taken inside his house, at that time, Abhaysingh came with others and beat them with wooden log, hockey sticks and iron pipe. He has stated in his deposition that the blow with iron pipe was given on his head. The iron pipe was attributed to Ranjit. Thus, according to him Ranjit had given that

blow. Statement of PW-7 Ravikiran and PW-10 Mandakini are also similar. Therefore, from the evidence it appears that the blow of iron pipe was given on the head of the injured Rajkiran by Ranjit. The incident had taken place after Rajkiran had come on the scene to rescue Rupali. By that time the quarrel between Rupali and others had already started.

10. The injury certificates show that Rupali had suffered two simple injuries on the head and abdomen. Ravikiran had suffered three simple injuries. Two were in the nature of abrasion and head injury was described as simple injury. Mandakini had suffered small trauma. Thus, all these injuries are simple. The only seriously injured person was PW-9 Rajkiran who has suffered two injuries on the head. They were on fronto parietal region and occipital region. Both these injuries were described as grievous injuries causing fractures. Blow with the iron pipe was attributed by him to the accused Ranjit. Therefore, we are not inclined to grant relief to Ranjit in this case. However, others have caused only simply injuries and therefore, at this stage we are inclined to grant relief to the other applicants. Hence

the following order.

ORDER

1. During pendency and final disposal of the Criminal Appeal No.333 of 2022 and Criminal Appeal No. 325 of 2022, the applicants Gopinath Gahile, Abhaysingh Rathi and Sandip Rathi are directed to be released on bail on their furnishing PR bond of Rs.25,000 (Rs. Twenty Five thousand) each with one or two solvent sureties each in the like amount.
2. The application for the Applicant Ranjit Rathi is rejected.
3. Criminal Application No.1471 of 2022 and Criminal Application No. 1492 of 2022 are disposed of.

BHARAT P. DESHPANDE, J.

SARANG V. KOTWAL, J.