

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.542 OF 2020

Kailash Kondiram Ringe .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Kartik S. Garg with Mr.Yash Arora i/b Mr.Amit Dabekar for the Applicant.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

Mr.Bharat Darade, API attached to Dindoshi Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 28th JUNE, 2022

P.C:-

1. At the outset, the learned counsel for the applicant makes a categorical statement that he has surrendered himself in terms of the order dated 14/06/2022 and, presently, he is in judicial custody.

2. The applicant is chargesheeted in C.R.No.380 of 2019 registered with Dindoshi Police Station, which invokes Sections 307, 324, 326 read with Section 34 of the IPC. In connection with the said C.R. registered on 09/07/2019, he came to be arrested on 31/07/2019 and till date, he remained incarcerated.

It is stated that despite lapse of four years, charge is not yet framed.

3. The C.R. came to be registered on the complaint of one Laxman Dhindore, who referred to an incident dated 28/07/2019, when at around 10.00 p.m., he alongwith his friend Sanjay Kadam was taking a stroll. They noticed that near a mobile toilet, four persons were assaulting one rickshaw puller by iron rods. When they attempted to intervene, one of the assailants hit Sanjay with an iron rod in his head and another person assaulted him with wooden bamboo. He state that he was assaulted in his head and on his legs. The persons were referred to as Paddu and Kattu. The complainant himself states that Sanjay was taken to H.B.T. Trauma Care Hospital and he himself was under treatment. One more person was reported to be injured and his name is given as Bhalchandra.

4. Corroborating the aforesaid incident, is the statement of one Hamid Sayyed, who has witnessed the incident and narrated that four persons were assaulting Bhalchandra and he specifically took the names of all the four persons and stated that they were assaulted with iron rods, wooden bamboo and fist and blows. The witness stated that since he was petrified, he did not dare to intervene and left the spot. However, he noticed that Saroj @ Babloo assaulted Bhalchandra in his head by means of an iron rod and Kailash (applicant) assaulted him in his face by a bamboo, which he was holding. Kalpesh and Dharmendra are alleged to have assaulted Bhalchandra by fist and blows. The assault resulted in bleeding injuries to Bhalchandra. He also referred to the assault on Sanjay Kadam, who had intervened in the incident.

The statement of Sanjay Kadam is also recorded and compiled in the charge-sheet where he states that he was unconscious for 3 days.

5. The charge-sheet compile the injury certificates of the injured and as far as Sanjay Kadam is concerned, he sustained one injury i.e. CLW of 6 x 1 x 1cm on left parietal skull, which was described as grievous injury, since there was fracture. The injury certificate of the complainant is not on record. As far as Bhalchandra is concerned, he has sustained CLW over chin and over occipital part of head. Both the injuries are described as simple injuries.

6. The role of the applicant has clearly surfaced from the statement of Hamid Sayyed, though the first informant do not name the present applicant and it is informed that no TI parade is conducted as regards the first informant.

The witness, Hamid Sayyed has stated that the accused persons assaulted Bhalchandra with iron rods and wooden stick and Bhalchandra sustained bleeding injuries. He specifically states that Bhalchandra was assaulted by the present applicant in his face by means of a wooden bamboo. The injuries sustained by Bhalchandra are simple in nature. Though it is a settled position of law that as far as Section 307 is concerned, what is important is the intention and not the nature of injuries, by considering that the injuries suffered by Bhalchandra are simple in nature and the applicant is incarcerated since last four years, though temporarily released on Covid bail, he deserves his release on bail.

Further, the charge is not framed despite lapse of four years from the date of incident and the applicant cannot be

deprived of his liberty on account of delay caused by the prosecution. The learned A.P.P. also states that the applicant has no antecedents.

7. Taking into consideration the nature of accusations faced by the applicant in the chargesheet and since the prosecution has not expressed apprehension of flight risk, the following order is passed.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Kailash Kondiram Ringe shall be released on bail in connection with C.R.No.380 of 2019 registered at Dindoshi Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of 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 so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (d) The applicant shall not step in the area where the injured persons are residing i.e. Malad, Mumbai till the conclusion of the trial.
- (e) The applicant shall attend the trial on regular basis, unless and until specifically exempted.

(SMT. BHARATI DANGRE, J.)