

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

CRIMINAL BAIL APPLICATION NO.677 OF 2020

Balaram Baban Dalvi

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Kabul Singh Labana, Advocate for Applicant.
- Smt.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th JANUARY 2022

(through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.I-104/2017 registered with Washind Police Station, Thane, under sections 307 of the Indian Penal Code and under sections 4 and 25 of the Indian Arms Act. The FIR was lodged on 10/12/2017. The Applicant was arrested on the same day on the spot. Since then he is in custody. The investigation is over and the charge-sheet is filed long time before.

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2. The learned counsel for the Applicant informed the Court that the trial has not even commenced yet.
3. Heard Mr.Kabul Singh Labana, learned counsel for the Applicant and Smt.A.A. Takalkar, learned APP for the State.
4. The FIR is lodged by one Murlidhar Ramu Kolekar. His nephew Santosh Kolekar was a vegetable vendor. He used to sell vegetables in Kalyan vegetable market. The Applicant was his neighbour. The Applicant was residing with his wife and children. The Applicant was suspecting that Santosh and the Applicant's wife were having illicit relations and therefore he was angry with Santosh. He had even threatened Santosh on some occasions. On 10/12/2017 at about 10.30 a.m. in Washind, the Applicant chased Santosh with a sword in his hand. He assaulted Santosh with the sword. He gave multiple blows. The people in the area and the police of Washind police

station apprehended him. The injured Santosh was removed to hospital and this FIR was lodged.

5. The learned counsel for the Applicant submitted that the Applicant is in custody since 10/12/2017 i.e. for more than four years. There is absolutely no progress in the trial. The victim has survived and one of the injuries was on vital parts. He submitted that the Applicant is willing to stay outside Thane district, so that there is sufficient protection and the apprehension of any repetition of his act can be taken care of.

6. The learned APP submitted that there are eyewitnesses to the incident. The victim himself has given clear role of the Applicant. The injuries are serious and therefore bail should not be granted to the Applicant.

7. I have considered these submissions. Apart from the first informant, the victim's statement obviously is important. He has stated that on the date of incident when he was climbing

down the railway bridge, suddenly somebody gave a blow on his head and on his back. When he looked back, he saw that the Applicant was assaulting him. He tried to stop him, but the Applicant did not stop. In defence, the victim put up his hands. The blow landed on his both hands. He was also assaulted on his face and ears. In the meantime, the people from the locality came there. From this statement the Applicant's role is clearly seen. The injury certificate shows that the victim had suffered 10 injuries. The medical certificate shows that he had suffered sharp injuries on the face, lower lip and both the ears. There was fracture of second finger of the right hand. There was fracture of left hand forearm. Other injuries were simple.

8. While it is true that the Applicant had assaulted the victim with dangerous weapon by giving multiple blows, however except for injuries to the face there are no injuries on the other vital parts. The victim has survived. The Applicant is already in custody since past more than 4 years. He cannot be kept in custody indefinitely without trial. Therefore I am

inclined to grant bail to the Applicant. However, the safety of the victim is also important. For that purpose, sufficient conditions are required to be imposed on him.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.I-104/2017 registered with Washind Police Station, Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall stay out of Thane district till conclusion of the trial.
- (iii) Before being released on bail, the Applicant shall give his prospective address to the Investigating Officer and shall report to the

nearest police station once in fortnight till conclusion of the trial.

- (iv) The Applicant is permitted to enter into Thane district only for the purpose of attending the trial and he shall attend the trial on every date.
- (v) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)