

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1026 OF 2021
WITH
INTERIM APPLICATION NO. 199 OF 2022**

Mahendra Komanna Boina .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Ankush Dhokale for the applicant.
Smt. A.A. Takalkar, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 4th JULY, 2022**

P.C:-

1 The applicant is charge-sheeted in CR.No.136 of 2020 with Chembur Police Station, Mumbai, for the offences punishable under sections 279, 307, 324, 504, 506(2) r/w. 34 of IPC, and section 37(1) (a) r/w. 142 of Maharashtra Police Act. The complaint lodged by one Akshay Mohite reveal that on 5/05/2020, he along with his friend had parked their vehicles near Sai Baba Temple and they found them to be damaged. It was informed that the accused persons have dashed against the scooters and, therefore, they demanded money for the damage and this resulted in an altercation and scuffle.

On the evening of same day at 7:30 p.m, another incident is alleged to have taken place, when the accused persons came

near Sai Baba temple and when the complainant along with Pappu Choudhary where his brother Rahul and Akash Choudhary were standing, accused Krushna is alleged to have threatened him with dire consequences and took out the knife from his pant pocket and assaulted him and stabbed him on the left side of the chest. As per the complainant, at the very same time, accused Dhiraj Singh caught hold of Pappu Choudhary from behind and the present applicant Mahendra is alleged to have taken out a sickle which he had hidden behind, with an intention to assault Pappu. However, he managed to evade the said attack and therefore the blow landed on his left hand palm, causing injury.

2 The investigating machinery was set into motion and the spot panchnama was prepared and injured were send for medical examination. As far as the complainant Akshay Mohite is concerned, he sustained a penetrating incise wound of 6 x 2 x 0.5, on left side of his chest which was described as a grievous injury which was attributed to Krushna Boyanna. Pappu Choudhary who is another injured, who suffered a lacerated wound over left palm, a single injury which was attributed to the present applicant.

3 The learned counsel has placed on record an order passed in favour of Krushna who is alleged to have assaulted complainant Akshay with an intention to eliminate and which act resulted in invoking of section 307 of the IPC, has being

released on bail by order dated 16 March, 2022 by this Court.

4 Recording that Krushna had inflicted a single blow and the depth of the injury was not indicative that he intended to cause his death, and considering that he was incarcerated for last 2 years, he was released on bail. The applicant place reliance on the said order and submit that the role attributed to him, is less as compared to said accused as he is alleged to have assaulted Pappu and caused a simple injury.

5 On perusal of the charge-sheet, and the material in form of statement of witness corroborates the case of the prosecution, where the applicant is charged for assaulting Pappu and causing simple injury, I deem it fit to grant him his liberty.

6 The learned APP state that the applicant is a hardened criminal and she has placed before me list of 14 CRs registered against him from the year 2015 to 2020, all the offences being registered in Chembur Police Station. Apart from this, there are 3 offences registered in Govandi Police Station. The applicant face serious accusations under section 307, 302 , 323 , 326, 504, 506 of IPC as well as the relevant sections of the Maharashtra Police Act. In Govandi Police Station he is accused of 279, 318 of IPC in two distinct offences.

7 Considering the antecedents , the learned APP request that some stringent condition be imposed upon him so that he do not indulge into the similar type of offences again.

8 Considering the role attributed to the applicant in the charge-sheet, and particularly when Krushna, the co-accused in the same CR has been released on bail, the applicant cannot be further incarcerated. He is, therefore, released on bail subject to the following stipulation.

ORDER

- (a) In the event of arrest, the Applicant Mahendra Komanna Boina shall be released on bail in C.R. No. 136 of 2020 registered with Chembur Police Station, on executing P.R. bond to the extent of Rs.25,000/- each and furnishing one or two sureties of the like amount.
- (b) 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 not enter into the jurisdiction of Chembur Police Station except for marking his attendance on every first Monday of the month till framing of the charge. He shall ensure that though he is present in the city, he shall remain outside the jurisdiction of Chembur police station, where the victims are also residing.
- (d) Any complaint on behalf of prosecution witness

about any threat or intimidation, would entitle the prosecution to seek cancellation of bail.

9 In view of the disposal of Bail application, Interim application do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)