

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

CRIMINAL BAIL APPLICATION NO.816 OF 2022

Roshan Hiranand Jha ... Applicant

V/s.

State of Maharashtra ... Respondent

**PRIYA
RAJESH
SOPARKAR**

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Date: 2022.09.16
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Mr.Vipin O. Dubey i/by M/s V.K.Dubey Associates, Advocate for the Applicant.

Mr.S.H.Yadav, APP for the Respondent/State.

Mr.Ankush Waluse, PSI, Kalyan Taluka police station present.

CORAM : SMT. BHARATI H.DANGRE, J.

DATE : SEPTEMBER 13, 2022.

P.C.:

1. The applicant came to be arrested on 5th July, 2021 in connection with C.R.No.482 of 2019 registered with Kalyan Taluka police station. The offence is punishable under sections 307, 341, 143, 144, 147, 148, 149, 324, 323 and 504 of the Indian Penal Code and sections 37(1) and 135 of the Maharashtra Police Act.

2. On completion of investigation charge-sheet is filed against five persons and the applicant is arraigned as accused No.1.

3. Heard learned counsel for the applicant and the learned Additional Public Prosecutor.

4. Upon perusal of the charge-sheet the charge against accused persons

is crystalized to the effect that on 30th September, 2018 at around 1.20 p.m. the complainant and his friend Amit Yadav were traveling on the motor-cycle and it is alleged that the accused persons in order to revenge the previous enmity constituted an unlawful assembly and intercepted them. The charge-sheet states that they were abused and accused No.2 assaulted on his head by means of iron rod, whereas accused No.1, the present applicant assaulted him by means of sword on his head, back, legs and thumb, whereas accused No.3 is alleged to have used a rod and accused No.4 used a wooden stick. Accused No.5 is alleged to have assaulted him by means of sword on the neck which resulted into serious injuries. The injury certificate filed in the charge-sheet refer to the following injuries sustained by the complainant to the following effect:-

1. Multiple CLW occipital region of head.
2. CLW on Back around 15x1x1 cm.
3. Compound injury to left hand thumb.
4. CT Bisain (P) -Chip fracture over posterior region of occipital bone.

5. The injured was treated in the hospital from 30th September, 2019 to 2nd October, 2019 and the C.T. scan of the head reveals a fracture of chip involving out of posterior region of occipital bone. The injury was described as grievous in nature.

6. Considering the long incarceration of the applicant and the investigation being complete, the learned counsel for the applicant placed heavy reliance on the order releasing the accused No.2-Rajesh on bail with

observation that other accused are released on bail. There is no reason why the benefit of the order shall not be extended to the present applicant, as the same facts will apply to his case with equal force. Apart from the above, it can be seen that since accused Nos.2 and 5 are also alleged to have assaulted the deceased on his head, it cannot be said that the injury is solely attributed to him.

7. The only impediment in unconditionally conferring his liberty are his antecedents. The learned APP has placed on record the list of the offences registered against him during the year 2014 to 2018 and in said period as many as 12 offences were registered in the Ulhasnagar police station and 1 offence is registered in Vitthalwadi police station. Counsel for the applicant state that he was acquitted in one of the offence. He is charge-sheeted for four C.R.s under section 307 of IPC and apart from this there are bodily offences as well as he is accused of forming an unlawful assembly, however, the antecedent/s itself can be a ground of incarceration and he deserve liberty.

8. Learned counsel for the applicant on instructions of the applicant's brother, who is present in the court make a statement that he alongwith his family shall continue to stay in Nashik city till conclusion of the trial.

Accepting this as an undertaking, I am inclined to release him on bail

in the subject C.R. with certain conditions. Hence, the following order:-

ORDER

- i. The Criminal Bail Application is allowed and disposed off.
- ii. The applicant is released on bail in connection with Crime No.482 of 2019 registered with Kalyan Taluka police station on his furnishing PR Bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount.
- iii. He shall be released on provisional cash bail for a period of four weeks.
- iv. The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.
- v. The applicant on his release shall not set his foot in the jurisdiction of Ulhasnagar and Thane police station as per the undertaking to this court and he shall continue to reside in the jurisdiction of Nashik city.
- vi. The applicant shall mark his attendance with the police station and in case he is desirous of staying in Nashik, he shall mark his attendance on first Monday of every month in the police station which would fall within the precinct of Nashik City police station.

The concerned police station where he will continue to report shall forward their quarterly report to Kalyan Taluka police station.

(SMT. BHARATI H. DANGRE,J.)

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