

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

CRIMINAL BAIL APPLICATION NO. 957 OF 2022

WITH

INTERIM APPLICATION NO. 2780 OF 2022

WITH

INTERIM APPLICATION NO. 1989 OF 2022

Tanmay Narayan Lakade and Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

....

Mr. Ashok P. Mundargi, Senior Advocate i/by Mr. Prashant S. Hagare, Advocate for the Applicants in Bail Application and I.A. No.2780 of 2022.

Mr. Dr. U.P. Warunjikar i/by Mr. Santosh S. Musale, Advocate for the Applicant in I.A. No.1989 of 2022.

Mr. N.B. Patil, APP for the Respondent – State.

Mr. Rupesh Vijaysingh Kadam, PSI, Bhigwan Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th OCTOBER, 2022.

PER COURT :

1. The applicants were arrested on 5th November, 2021 in connection with C.R. No.283 of 2021 registered with Bhigwan Police Station, Tq. Indapur, Dist. Pune Rural for the offences under Sections 302, 307, 324, 143, 147, 148, 149, 504 and 506 of Indian Penal Code (for short 'IPC').

2. The case of the prosecution is as follows:-

The first informant Balu Shivaji Lakade is the resident of Nirgude, Lakadevasti, Tq. Indapur, Dist. Pune. Maruti Ganpat Lakade (Deceased) had a dispute with his cousins Dnyanadeo

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Krushna Lakade, Rambhau Sonaba Lakade and Bayaji Lakade on account of property situated at Nirgude. The said dispute was resolved by dividing the property into two parcels of 22/80 feet. On 4th November, 2021 at about 4:00 p.m. the first informant, Maruti Lakade and Walmik Lakade visited their property at Nirgude for the purpose of cleaning. At that time Narayan Lakade, Dattu Lakade. Amar Lakade, Tanmay Lakade and Shubham Lakade came there. They restrained the first informant and others from cleaning the said land. The first informant and others informed the accused not to create any dispute and they should meet elderly persons for resolving the dispute. At about 5:00 p.m. Maruti Lakade and Walmik Lakade came near Maruti Temple situated at Lakadevasti. Narayan Lakade and Dattu Lakade came to the spot. Rajendra Lakade, Vitthal Lakade, Baban Lakade and Sandip Lakade were called for resolving the dispute. All of them were sitting in front of temple. The first informant asked the mediators as to which portion of property was allotted to them. Rajendra Lakade, Vitthal Lakade and Baban Lakade told them that the property situated the Southern Side was allotted to them. Narayan Lakade and Dattu Lakade started abusing first informant and others. Shivaji Lakade came to the spot. At that time Dattu Lakade and Narayan Lakade called Dnyanadeo Lakade, Amar Lakade and Parubai Lakade to the spot of the incident. Narayan

Lakade, Dattu Lakade and Amar Lakade were armed with iron rod. Shubham Lakade, Parubai Lakade and Dnyandev Lakade were carrying sticks and stones. All of them assaulted Maruti Lakade and Walmik Lakade. Narayan Lakade and Dattu Lakade threatened Maruti Lakade that, he will not be spared and he would be killed. Both of them assaulted Maruti Lakade by giving blow of iron rod on his head Dattu Lakade was instigating others not to spare the opponents and to kill them. Amar Lakade assaulted Walmik Lakade by giving blow of iron rod on his head. Tanmay Lakade, Shubham Lakade, Parubai Lakade and Dnyandev Lakade assaulted the first informant and his father Shivaji Lakade on head, back and hand. All of them assaulted Maruti and Walmik with iron rod, sticks and stones. Maruti Lakade and Walmik Lakade suffered head injuries. Maruti and Walmik fell down. They were unconscious. They were taken to hospital. Maruti was declared dead. Shivaji and Walmik were treated in hospital.

3. The applicants preferred an application for bail before Sessions Court. The application was rejected by order dated 7th March, 2022.

4. Senior Advocate Mr. Mundargi appearing for the applicants submitted that the applicants are young boys. They were students. The applicant Shubham Lakade was granted temporary bail to enable him to appear for the Second Semester, Civil Engineering

Examination at S.B. Patil College of Engineering, Indapur. He has not misused the facility of bail. He had surrendered after expiry of temporary bail. The applicants are falsely implicated. The allegations against the applicants are vague. The prime role of assaulting the deceased Maruti Lakade was attributed to the co-accused. Shivaji and Walmik were discharged from the hospital. Parubai Lakade and Dnyandeo Lakade were attributed similar role. They were granted anticipatory bail by this Court vide order dated 13th July, 2022. There are no criminal antecedents against the applicants. Medical certificate of first informant is not on record to substantiate allegations of assaulting him.

5. The Investigating Officer has filed Affidavit opposing bail. Learned APP and learned Advocate for the first informant submitted that the offences is of serious nature. The applicants were armed with sticks and stones. They were attributed role of assault. They were involved in assaulting the deceased and injured persons. Co-accused Parubai Lakade and Dnyandeo Lakade were granted anticipatory bail, considering that they were senior citizens aged around 70 and 80 years. Weapons used in the crime are recovered from the applicants. There are eye witnesses to the incidents. The applicants have motive to commit the crime. Spot Panchanama indicate that the blood was noticed on the stone. The offence is of

serious nature. There is enmity between accused and the injured persons. The relative of the applicant had threatened the complainant to withdraw the case and non-cognizable offence was registered vide N.C. No.1609 of 2021 with Baramati Taluka Police Station. Son of the deceased has registered N.C. No.143 of 2016 with Bhigwan Police Station on 20th April, 2016. Civil Suit is pending between the applicant and the original complainant before the Civil Judge, Junior Division, Indapur. The first informant and the other eye witnesses has stated that all the accused were involved in assaulting Maruti Lakade. The role of the applicants cannot be segregated.

6. Statement of first informant indicate that there was dispute between the parties an account of property. The incident had occurred on 4th November, 2021. The quarrel took place at about 4:00 p.m. and the incident of assault had occurred at about 5:00 p.m. The version of first informant is that Narayan Lakade, Dattu Lakade and Amar Lakade were armed with iron rod. Shubham Lakade (Applicant), Parubai Lakade and Dnyanadeo Lakade were armed with sticks and stones. All the accused had assaulted Maruti Lakade and Walmik Lakade. Narayan Lakade and Dattu Lakade had threatened Maruti Lakade that he would be killed and gave blow of iron rod on his head. Dattu Lakade instigated others to finish the

opponents. Walmik Lakade was assaulted by Amar Lakade with blow of iron rod on his head. Specific role of assaulting first informant and Shivaji Lakade by sticks and stones is attributed to applicants, Parubai Lakade and Dnyandeo Lakade. It is also stated that all of them assaulted Maruti Lakade, Walmik Lakade and first informant. The specific role of assault attributed to the applicant is qua Shivaji Lakade and informant. Apparently, Shivaji and Walmik were treated in Hospital. They are discharged from hospital. Parubai Lakade and Dnyandeo lakade were attributed to the similar role as that of applicants. It is not disputed that co-accused Dnyandeo Lakade and Parubai Lakade were senior citizens. While deciding the application for anticipatory bail preferred by the said accused, this Court had noted in the order dated 13th July, 2022 passed in Anticipatory Bail Application No.133 of 2022 and 3014 of 2021 that according to prosecution Parubai Lakade and Dnyandeo Lakade assaulted the complainant and his father Shivaji Lakade by sticks and stones. Amar Lakade gave a blow by iron rod on head of Walmik Lakade. *Prima facie* it appears that the role attributed to Parubai Lakade and Dnyandeo Lakade is that of assaulting the first informant and his father Shivaji Lakade by sticks and stones alongwith co-accused. In the FIR there is also a general allegation that all the assailants assaulted first informant, deceased Maruti and

Walmik by iron rod, sticks and stones. However, general allegation is required to be appreciated in the context of the specific role of assaulting the deceased and Walmik by means of iron rod attributed to the co-accused.

7. Statements of witnesses were recorded. Their version is similar to the first informant. However, statement of one witness namely Dnyaneshwar Vilas Shirshat depicts a difference picture. He has stated that on 4th November, 2021 Dattu Lakade gave phone call to him and told him about the quarrel and that he had suffered head injury. He is on the way to the Bhigwan Police Station for lodging complaint. The witness should accompany him. Dattu Lakade and Narayan lakade met him. Dattu Lakade had suffered head injury. He was bleeding. His shirt was torned. There were blood stains on the shirt. They approached Bhigwan Police Station. Dattu Lakade obtained Yadi for medical treatment. Dattu Lakade proceeded to Baramati for treatment. Postmortem report shows grievous injury over head parietal region, size 3 cm in length and 1 cm breadth and 1.5 cm depth. No other injury. Injury certificate of Shivaji Lakade refers to CLW on head 3 cm x 0.1 cm x 0.1 cm and contusion on hand. The nature of injury is grievous. Walmik Lakade suffered CLW on head. Nature of injury is grievous. Both were discharged from hospital.

8. Considering the role attributed to the applicants bail can be granted to have on certain terms and conditions.

ORDER

- i. Criminal Bail Application No.957 of 2022 is allowed;
- ii. The applicants are directed to be released on bail in connection with C.R. No. 283 of 2021 registered with Bhigwan Police Station on executing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- iii. The applicants are permitted to furnish provisional cash bail security in the sum of Rs.25,000/- each for a period of eight weeks in lieu of surety.
- iv. The applicants shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- v. The applicants shall not tamper with the evidence.
- vi. The applicants shall not approach the witnesses and shall not threaten them in any manner.
- vii. The applicants shall not enter into village Nirgude, Lakadevasti, Taluka, Indapur, Dist. Pune for a period of six months.

viii. Applications stand disposed off accordingly.

[PRAKASH D. NAIK, J.]