

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

CRIMINAL BAIL APPLICATION NO.1352 OF 2021

Xavier Gnanthayalan
@ Xavier Dnyan Dayal

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Rahul Arote, Advocate for Applicant.
- Smt. Rutuja Ambekar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th FEBRUARY, 2022

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.486/2018, dated 14/10/2018, registered with Juhu Police Station, Mumbai, under sections 307, 326, 324, 506(II), 504, 143, 144, 147, 148 149, 427 of the Indian Penal Code and under sections 4 and 5 of Indian Arms Act.

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2. Heard Mr.Rahul Arote, learned counsel for the Applicant and Smt.Rutuja Ambekar, learned APP for the State.

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3. The FIR is lodged by one Murgesh Karpanna Devendra. He has stated that he was residing with his family consisting of his wife, son Keshvan, daughter-in-law Sonia and daughter Chitra. The informant and his son were neighbours. It is stated in the FIR, that the Applicant and other accused had created terror and nuisance in the area. On 14/10/2018 at 05.00 a.m. somebody knocked the informant's door. His family came out to see what was the commotion about. They saw that all the accused including the present Applicant were causing disturbance in their lane. It is alleged that, the accused Arvind Devendra was trying to break open the door of the informant's brother's house. The informant shouted and therefore all of them ran away. After some time all these accused came to the informant's house. They were carrying weapons like sword, paver block, knife etc. The Applicant was having an iron bar. They started damaging the doors and windows. The accused Arvind gave blow of sword on the informant's son Keshavan's head. The others were assaulted. The Applicants and others

threatened the people in the locality so that nobody could come to their rescue. Some of them were assaulted by the Applicant and others. On this basis, the FIR is lodged.

4. The Applicant was arrested on 15/10/2018 and since then he is in custody. The investigation is over and the charge-sheet is filed.
5. Learned counsel for the Applicant submitted that no specific role of assault, to any of the injured is attributed to the present Applicant. The investigation is over and his further custody is not necessary. The injured have not suffered life threatening injuries. In fact there are no allegations that the Applicant had assaulted either informant's son Keshavan or daughter-in-law Sonia. He submitted that in the background of these facts the Applicant deserves to be released on bail.
6. Learned APP submitted that the Applicant has four criminal antecedents between the year 2015 to 2018 and therefore bail should not be granted to him.

7. I have considered these submissions. Apart from the first informant, there are statements of other eyewitnesses namely Valarmati Murgesh Devendra, i.e. the informant's wife, the informant's brother Vijaykumar Devendra, informant's son Keshavan and informant's daughter-in-law Sonia and an independent eyewitness Sarvana Nallyappa Devendra. Their statements are consistent. However, none of them has given any specific role to the Applicant of causing any serious injury to the injured. The charge-sheet includes injury certificates of Keshavan and Sonia. Keshavan has suffered three simple injuries and multiple abrasions. Sonia has suffered one grievous injury on the right frontal bone and one abrasion. This injury to Sonia is serious and her statement is important. She has attributed that particular injury to Raju. The Applicant has not caused any injury to her. He is in custody since 15/10/2018. Therefore he deserves to be released on bail, though he has antecedents against him. Though I am inclined to grant bail to the Applicant, considering his antecedents, some conditions are required to be imposed.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.486/2018, dated 14/10/2018, registered with Juhu Police Station, Mumbai, 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 local sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once every fortnight for a period of one year from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)