

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2242 OF 2022

Mohammed Yunus Ali Shaikh @ .. Applicant
Khan

Versus

The State of Maharashtra .. Respondent

WITH

INTERIM APPLICATION NO.3490 OF 2022

IN

BAIL APPLICATION NO.2242 OF 2022

Rambabu Uday Singh .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

WITH

BAIL APPLICATION NO.1241 OF 2022

Prakash Devbali Singh .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

INTERIM APPLICATION NO.2125 OF 2022

IN

BAIL APPLICATION NO.1241 OF 2022

Rambabu Uday Singh .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr.Ashok M. Saraogi for the Applicant in BA/2242/22.

Mr.K.R.Tiwari with Mr.Rakesh Singh for the Applicant in BA/1241/22

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

Ms.Sana Raees Khan with Mr.Aditya Parmar for the Intervenor.

PSI Harish Ashok Patil, attached to Pelhar Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 21st OCTOBER, 2022

P.C:-

1. In furtherance of the order dated 19/10/2022, when the Investigating Officer was directed to ascertain the veracity of the two distinct certificates; one issued by Shree Diagnostic Centre on 12/10/2021, which reported undisplaced fracture of right parietal bone with overlying scalp hematoma and the other by SDRC dated 12/10/2021, which recorded that there is no evidence of fracture, dislocation or bone destruction.

Learned A.P.P. Mr.Gavand has placed before me the statement recorded from the Operator of Shree Diagnostic Centre Shri Nilesh Sable, who states that no patient by name Manoj Singh ever reported to their centre on 12/10/2021. When he was confronted with the certificate issued on the letterhead of Shree Diagnostic Centre, the witness categorically states that on that date, scanning was not in

operation and he also states that there is no doctor by name Prakash Bagrecha associated with their centre. He categorically makes a statement that since no patient was examined, the report which is obtained on the letterhead of Shree Diagnostic Centre is a fraudulent report and which is never issued on scanning the said patient.

In the wake of the said statement, when statement of Dr.Abdul Rehman Chaudhari is once again looked into, it clearly reveal that what was placed before him was the report from the Shree Diagnostic Centre and he has categorically stated in his communication addressed to one of the co-accused on 20/09/2022 that he was misled.

Further, when the Investigating Officer has recorded his statement on 30/09/2022, he has categorically stated that he was misled by not producing the report from Siddhi Diagnostic and Research Centre, but what was produced, was the certificate from Shree Diagnostic Centre, which records the fracture and based on it, he issued a injury certificate on 12/10/2021, describing the injury as grievous.

In the wake of the subsequent development, when the Investigating Officer has now recorded the statement of the operator from Shree Diagnostic Centre, it is clear that there

was no such certificate issued by Shreee Diagnostic Centre and there was no fracture. Learned A.P.P. makes a specific statement that distinct offence would be registered against the person, who has procured such a certificate.

2. In the wake of the above scenario, the charge-sheet is perused by me. The two applicant before me are accused No.1-Prakash and accused No.3-Mohammad Yunus. They face the accusations under Sections 307, 326, 120-B, 323, 143, 147, 148, 149, 109, 114, 504 and 506 of IPC. Applicant-Prakash came to be arrested on 27/11/2021, whereas applicant-Mohd. Yunus surrendered himself before the police on 27/01/2022. The material compiled in the charge-sheet accuse that all the four accused persons conspired to cause injury to Manoj Singh and it is alleged that on 11/10/2021 at around 16.15 hrs., the accused persons formed an unlawful assembly on being armed with weapon like wooden sticks and other dangerous weapons and on the accused-Sushila Uday Sinh, pointing out her finger to the complainant and instigating to thrash him, it is alleged that the wanted accused assaulted the complainant on his legs, knees and back. Applicant-Prakash is attributed of assaulting him by a dangerous weapon on his legs and in his head with an intention to kill. The certificate from Vasai -Virar City

Municipal Corporation, where the injured was immediately taken to, is placed on record, which refer to a head injury at parietal region mid-line. It is recorded that no other injury marks are seen. The CT scan was referred to, but there is no report on record. Learned A.P.P., on instructions of the Investigating Officer, states that the complainant was immediately discharged from the hospital.

3. In the wake of the aforesaid circumstances, though the applicants may face the accusations for the offence under Section 307 of IPC, since invocation of Section 326 of IPC is at present ruled out, in the wake of the further investigation from the concerned police station and the clarification offered by Dr. Abdul Rehman Chaudhari, who has issued the injury certificate classifying the injury as grievous, on investigation being complete with all necessary material against the accused persons being compiled in the charge-sheet, they deserve their release on bail.

4. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicants for the offences with which they are charged, shall not get influenced by the above observations, in any manner.

: **ORDER** :

- (a) Applications are allowed.
- (b) Applicant -Mohammed Yunus Ali Shaikh @ Khan (Bail Application No.2242 of 2022) and Applicant-Prakash Devbali Singh (Bail Application No.1241 of 2022) shall be released on bail in connection with C.R.No.1276 of 2021 registered with Tulinj Police Stationon furnishing P.R. Bond to the extent of Rs.50,000/- each, with one or more sureties in the like amount.

The applicants shall be released on cash bail for a period of six weeks. During the said period, they shall arrange for the sureties.

- (c) The applicant shall mark his attendance before the concerned police station on first Monday of every alternate month between 3.00 p.m. to 5.00 p.m. till framing of charge and, thereafter, shall abide by the directions issued by the trial Court.

- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicants shall furnish their contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

5. In view of the disposal of the bail applications, interim applications do not survive and stand disposed off.

6. All the concerned to act upon the authenticated copy of this order.

(SMT. BHARATI DANGRE, J.)