

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1654 OF 2022

Darshan Suresh Mhatre .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Vinod Khalid for the Applicant.

Ms. P.N. Dabholkar, A.P.P. for the State/Respondent.

Mr. Sanjay Kulkarni for the Intervenor.

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CORAM: BHARATI DANGRE, J.

DATED : 23rd AUGUST, 2022

P.C:-

1. The present applicant is charged for the offence under section 302, 307, 323, 324, 326, 336, 147, 148, 149, 201 of IPC and r/w sections 37(1), 135 of the Maharashtra Police Act.

The subject CR, indicted 6, persons as accused and the applicant is accused no.6, who came to be arrested on 15/03/2018, and since then he is incarcerated.

2. With the able assistance of the counsel for the applicant, the counsel for the complainant, and the learned APP, I have perused the charge-sheet which is placed on record.

The charge-sheet refer to an incident, which took place on 3/03/2018 at about 10:30 p.m between the two families residing in the neighbourhood, in the background of prior dispute, on account of the water flowing from the house of the complainant, was passing through the house of the accused persons, before it was directed on the public road. It is alleged that accused no. 4 had erected a construction and stalled flow of the sewage as a result of which, the women in his family questioned accused no.4 and a verbal altercation took place between the accused no.4, accused no.6 and accused no.2. It is alleged, that they started abusing, the complainant and when Dnyandev Rane made an attempt to intervene, it is alleged that accused no.1 and 3 and 5 arrived at the spot, being armed with weapons. Accused no.4 is alleged to have stated that today he will end Rane family and they started assaulting the complainant Dnyandev and Anant Rane.

3. The actual incident has surfaced on record through the statement of one Datta Rane, who in minute detail, has narrated the incident and from his statement it can be discerned, that accused no.2 and 4 and 6 picked up the spade, Iron rod and an axe from the adjoining bungalow, where the construction activity was going and they mounted attack on complainant and other

witnesses.

4. The charge-sheet accuse, the present applicant for assaulting Ananta Rane by means of a spade and causing injury on his temporal region and head. Accused no.2 is charged with assaulting deceased Dnyandev on his stomach, near right eye and temporal region. Accused no. 5 is said to have assaulted the complainant by means of an Iron rod and accused no.4 is also alleged to have assaulted, when Madhuri came to intervene, it is alleged that he threw a brick at her, as a result of which even she sustained injury. Other persons, who came to intervene i.e. Jugnu, Nana and Gurunath, are also alleged to have been assaulted by accused no.2 and 5. Gurunath is alleged to have been assaulted by accused no. 3 and accused no.1 by an Iron rod and the blow was given on his hand, back and head. Nana is also said to have been assaulted by accused no.5 by means of iron rod and by axe by accused no.2.

5. The whole incident has clearly surfaced, in the charge-sheet, through various witnesses, who were present on the spot. This include the statement of Ananta Rane recorded on 14/04/2018, who state that Ramesh Mhatre assaulted him, in his head by means of an iron rod as a result of which, he sustained bleeding injury and he fell on the ground and was lying there for some time. Ananta do not name the present applicant as one of the assailant, who assaulted him. The injury certificate of Ananta placed in the charge-sheet refer to one CLW of 4 cm on

the occipital area. This is the only injury sustained by him and he has attributed it to Ramesh Mhatre.

6. The charge-sheet has compiled statement of various witnesses, and no doubt the offence that has surfaced on record in the charge-sheet is serious one. The accused persons are charged with the aid of sections 143, 147, 148, 149 of IPC, and since their presence on the spot is not disputed they may take the consequences of the offence under sections 302, 307 of IPC with the aid of the aforesaid sections if the prosecution is able to prove, that a common object was shared by them, though it might have developed on the spot.

However, as far as the present applicant is concerned at present, he is incarcerated for more than 4 years, though it was directed that the trial be expedited. It is informed that two witnesses are examined as on date and 10 witnesses are yet to be examined.

5. On undergoing of the trial, the applicant may even be convicted for the offence, but at present since his role has clearly surfaced on record, and his further incarceration is unnecessary, particularly when accused no.2 and 3 are already released on bail by this court in the year 2019 itself.

The only condition which needs to be imposed upon the applicant, is that he shall not set his foot in the area i.e. Dawalpada, Post Mangrul, Taluka. Ambernath, District Thane, where the complainant and the injured are residing, till the

conclusion of the trial.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Darshan Suresh Mhatre shall be released on bail in connection with C.R.No.I-55 of 2018 registered with Hill line Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) He shall attend the trial on each date, unless specifically exempted from the said court of Session.
- (d) The applicant 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 his release on bail, the applicant shall report to the Investigating Officer, and furnish his address, where he is likely to reside, and shall also render his contact number.
- (f) The Applicant shall stay away from Post Mangrul, Taluka- Ambernath, District- Thane, where the complainant and injured are residing, till the trial is concluded.

(SMT. BHARATI DANGRE, J.)