

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1840 OF 2022**

Ramesh @ Pappu Dattu Nalawade

... Applicant

versus

State of Maharashtra

... Respondent

Mr. Gajendra Jadhav for Applicant.

Mr. A.A.Palkar, APP, for State.

CORAM: N.J.JAMADAR, J.

DATE : 1st JULY, 2022

P.C.

1. This is an application for bail. The Applicant and the co-accused have been arraigned for the offences punishable under Sections 353 and 332 read with Section 34 of the Indian Penal Code, 1860, for having used criminal force as to prevent the public servants from discharging their official duty and also having voluntarily caused hurt to the public servants while they were discharging their official duty.

2. The indictment against the Applicant is that on 24th April, 2022 at about 10.30 p.m., the first informant – Ramesh A. Karande, attached to the Dapoli Police Station, visited a place near Sai Mandir, Navanagar, Dapoli along with Police Naik Talvatkar and Police Constable Satardekar. A DJ was being played thereat with a high volume. The first informant directed the organizers to switch off the DJ. While they were returning therefrom, an intimation was received that two group of persons were indulging in rioting. The first informant and his team went back to the said spot and

tried to prevent those two group of persons from assaulting the members of the rival group. In the process, when Mr. Satardekar attempted to disarm Shahaji Laxman Mane, the Applicant – Ramesh pelted stone which hit the right hand of Satardekar, the Police Constable. The Co-accused also allegedly used criminal force to the first informant and his associates.

3. The learned Advocate for the Applicant submitted that the learned Additional Sessions Judge was persuaded to exercise the discretion in favour of the co-accused and release them. However, the prayer of the Applicant was declined as the learned Additional Sessions Judge was of the view that though the injury suffered by Satardekar was simple, yet the fact that a police official was intentionally assaulted disentitled the Applicant from the exercise of discretion.

4. Heard the learned Advocate for the Applicant and the learned APP for the State.

5. I have perused the allegations in the FIR. The incident is alleged to have occurred while a police party attempted to prevent two group of persons from assaulting the members of the other group. In the process, the Applicant and the co-accused allegedly used criminal force. Evidently, there were more than 100 persons at the place and time of the incident. Prima facie, it was a free fight. In the heat of passion, the Applicant allegedly pelted the stone. The issue as to whether the Applicant had the *means rea* to cause harm to the police official with a view to deter

him from performing the official duties or the Applicant can only be held accountable on the basis of doctrine of transferred malice, is a matter for trial.

6. Having regard to the nature of occurrence, the possibility of tampering with evidence seems to be remote. The apprehension on the part of the prosecution can be taken care of by imposing conditions. Hence, I am inclined to exercise the discretion in favour of the Applicant. Thus, the following order :

ORDER

(i) The Applicant – Ramesh @ Pappu Dattu Nalawade be released on bail on furnishing a PR bond in the sum of Rs.25,000/- and one or two sureties in the like amount, to the satisfaction of the learned Additional Sessions, Judge, Khed, Ratnagiri.

(ii) The Applicant shall co-operate with the investigation and report to the Investigating Officer as and when directed.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The Application stands disposed.

(N.J.JAMADAR,J.)