

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1874 OF 2022
WITH
INTERIM APPLICATION NO. 2599 OF 2022**

Budha Pandu Dhore

....Applicant

V/s.

The State of Maharashtra

....Respondent

**WITH
BAIL APPLICATION NO. 2040 OF 2022
WITH
INTERIM APPLICATION NO. 3436 OF 2022**

Gokul Tukaram Dhore

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Tushar Sonawane, Advocate for the applicant in BA-
1874-2022.

Mr. Kishor Patil i/by. Ms. Rukmini Khairnar, Advocate for the
applicant in BA-2040-2022.

Mr. Akshay Bankapur, Advocate for the Intervenor/Applicant
in IA-2599-2022 and IA-3436-2022.

Mr. H.J. Dedhia, APP for State.

CORAM : SANDEEP K. SHINDE, J.

FRIDAY, 11TH NOVEMBER, 2022.

P.C. :

1. Applicant-Gokul (accused no.2) and Budha (accused no.1) in Crime No.885/2021 are seeking their enlargement on bail. The crime in question, came to be registered on 9th December, 2021 with Trymbakeshwar Police Station for the offences punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal Code. The investigation in the crime is over and the chargesheet has been filed on 20th February, 2022. The applicants herein were arrested on 9th December, 2021. The chargesheet indicates dispute subsist between the family members of the complainant and the applicants. There are cross FIRs filed against each other.

2. Prosecution case is, that on 8th December, 2021 accused no.1-Budha and applicant-Gokul had been to the house of the complainant at 9.00 p.m. They were armed with

the weapons. Budha assaulted the complainant with knife on his abdomen; whereas, Gokul inflicted injury on the head of Rama (brother of complainant). The Injury Certificate corroborates the allegation. The Certificate reveals that, complainant and his brother, Rama, both had suffered grievous injury.

3. Mr. Patil and Mr. Sonawane, learned Counsel for the applicants, would contend that in the subsequent statement recorded on 14th February, 2022, the prosecution attempted to improve its case, stating that, Gokul was armed with iron-rod. The Counsel would submit that the applicant's family members were also assaulted by the complainant and others, whereupon Crime No. 26/2022 came to be registered on 9th May, 2022 under Sections 143, 147, 148, 149, 324, 323 of the Indian Penal Code. Submission is that, there are complaints and cross-complaints by and between applicants and complainant. It is submitted that, since the chargesheet has been filed, but trial is not likely to commence in near future, further incarceration of the applicants, is not necessary. It is submitted that, both the applicants are permanent residents of Village-Trimbakeshwar and their presence for the trial can be secured by imposing suitable conditions. On these grounds, bail is sought.

4. The application is opposed by the learned Counsel for the applicant and learned APP for the State. It was pointed out, both the applicants have criminal antecedents. registered under Section 324 of the Indian Penal Code.

5. Mr. Dedhia, learned APP submitted that the Injury Certificate clearly indicates that the injuries were inflicted on the vital parts of the body and therefore in consideration of the facts and gravity of the offence, the applicants may not be released on bail. Learned Counsel appearing for the complainant, would submit that even after the incident and the arrest of the applicants, their relatives were threatening the complainant and to that end, complaints have been registered against them. Learned Counsel, would further submit that, the complainant and his brother, both had suffered grievous injuries on the vital part of the body and were admitted in the Hospital nearly for a week. It was submitted that, on release of the applicants, tampering prosecution evidence by the applicants, cannot be ruled out. He therefore opposes both the applications.

6. I have perused the chargesheet. The fact cannot be overlooked, that there were complaints and cross-complaints by and between the complainant and the

applicants. Although, there are crimes registered against the applicants, that itself would not detain the Court from releasing the applicants on bail. Moreover, the applicants have been incarcerated since 9th December, 2021 and in view of the fact that, investigation is over and chargesheet has been filed, no purpose will be served by detaining the applicants in custody. In my view, the apprehension of the complainant, that the applicants would tamper the prosecution witness and evidence would be taken care of by imposing suitable conditions. For all these reasons, the applications are granted. The applicants are directed to be released on bail on the following conditions :

ORDER

(i) The applicants arrested in Crime No. 885/2021 registered with Trymbakeshwar Police Station, District-Nashik, be released on bail on executing P.R. Bond in the sum of Rs. 30,000/- (Rs. Thirty Thousand only) each with one or more local sureties in the like amount;

(ii) They shall not enter into the jurisdiction of Trymbakeshwar Police station for a period of one year from today.

(iii) The applicant shall supply their address and contact details to the Investigating Officer within a week of release from the custody.

(iv) Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

4. Applications are allowed and disposed of in the aforesaid terms, including all applications therein.

Digitally
signed by
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SHAILESH
SAWANT
Date:
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+0530

NEETA
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(SANDEEP K. SHINDE, J.)