

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2097 OF 2022**

Arjun Ramchandra Adhikari .. Applicant
Versus
The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO.2978 OF 2022
IN
BAIL APPLICATION NO. 2097 OF 2022**

Prashant Madhukar Adhikari .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. Aabad Ponda a/w Ms. Saili Dhuru for the Applicant.

Mr.Dushyant Pagare for intervenor.

Ms. Veera Shinde, A.P.P. for the State/Respondent.

Mr. G.M. Palve, Shahapur, Police Station, Thane.

...

**CORAM: BHARATI DANGRE, J.
DATED : 13th SEPTEMBER, 2022**

P.C:-

1. The applicant is charged for the offences punishable under sections 324, 326, 504, 506, 143, 144 and 149 of IPC in C.R. No.I-340 of 2021 registered with Shahapur Police Station on 13/08/2021. He came to be arrested on 18/08/2021, and seek his release on bail on the ground that the other four co-accused, who are alleged to have equally participated in the assault, are released on bail. It is the case of the applicant that despite his long incarceration till date the charge is not framed and the trial may consume some considerable time.

2. Heard Learned senior counsel Mr. Ponda for the applicant and learned APP for the State and Mr. Dushyant Pagare for the intervenor. Perusal of the charge-sheet would reveal that the subject CR came to be registered on a complaint filed by one Prashant Adhikari, who reported to the police station about an incident, which took place on 12/08/2021. As per the narration of the complainant, at 20:45_hours he along with his three friends Ketan, Sandeep and Yogesh decided to have dinner in Bombay Dhaba and after having their dinner, when they started proceeding towards their vehicle at 23:30 hours, a rikshaw was noticed, and the present applicant i.e. Arjun Adhikari stepped out of the said rikshaw, and he is alleged to have been armed with an Iron Pipe, with which he hit him near his right ear. At that very same time, one person came from the back and mounted an assault on his back, and when he fell down he notice that the applicant was having an Iron pipe. Nagesh and Aatish was armed with a cricket bat, Ankush and Shiva were holding iron pipes. As per the complainant they started assaulting him and Arjun is alleged to have hit him on his legs by means of iron pipe below his knees, which resulted into severe injuries. It is his further narration, that all the accused persons brutally assaulted him and the applicant was instigating them. When his friend Ketan came to his rescue he was assaulted by Ankush, and by abusing him, they left the spot. The

above, resulted in registration of the subject CR and considering the nature of the injuries offence under section 326 came to be invoked.

The injury certificate placed on record reveal multiple fractures including the fracture of left tibia, fracture of tibia on right side, fracture on middle phalynx of right hand thumb and fracture of Lateral malleolus and medial malleolus on right side. It also record presence of CLW on right ear pinna and right knee joint. All the aforesaid injuries have been classified as grievous in nature, by the treating doctor on 15/08/2021.

3. The incident which, complained of is witnessed by Ketan, Sandeep and Yogesh who were present along with the complainant. Their statements are recorded and compiled in the charge-sheet.

Learned Senior counsel has invited my attention to the inconsistent version, which has surfaced on record through the said witnesses. By inviting my attention to the statement of Ketan, it is sought to be projected that he is at variance as far as assault mounted on the complainant, as he attribute the role of assaulting the complainant Prashant on his legs to Ankush, who was armed with Bat, and as per his version Ankush procured the Iron pipe from someone and assaulted Prashant on his legs. Similar is the version of Sandeep who attribute the assault on the legs of the complainant to Ankush.

The inconsistency in the version of the prosecution case would be dealt with at the time when the applicant face the trial and in any case if at all it is found there is inconsistency in the prosecution case, he will enjoy the benefit.

Apart from this, it can also be seen that, when the complainant was admitted to the hospital, medical history refer to assault by known 7 to 8 persons and the weapons used are stated to be rods, swords and gun. Neither the complainant nor any of the witnesses, who had seen the incident having taken place, have referred to any gun or sword.

4. Since the other four co-accused persons, Nagesh, who is alleged to have assaulted by means of a bat along with Atish and Shiva and Ankush, who have alleged to have mounted the assault by iron pipe are released on bail. I see no reason, why the applicant should be kept incarcerated, when the investigation is complete and the material against all the accused persons has been crystallized in form of the charge-sheet.

The liberty is restored to the applicant subject to the condition, that he shall not step into the jurisdiction of Shahapur Police Station except for the purpose of marking his attendance to the concerned police station as per the direction issued.

5. Hence the following order:

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Arjun Ramchandra Adhikari shall be released on bail in connection with C.R.No. I- 340 of 2021 registered with Shahapur police station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.
- (c) 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.
- (d) The applicant shall mark his attendance to the concerned police station on first Monday of the trimester between 4:00 p.m to 6:00 p.m.
- (e) The applicant shall furnish his contact number and residential address where he proposed to reside on being released on bail to the Investigating Officer and shall keep him updated, if there is any change.
- (f) The applicant shall not step into the jurisdiction of Shahapur police station, except for the limited purpose of marking his attendance, till framing of charge.

6. In view of disposal of Bail Application no. 2097/2022, Interim Application No. 2978/2022 do not survive and stands disposed off accordingly.

(SMT. BHARATI DANGRE, J.)