

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3149 OF 2021**

Bhalchandra Raghunath Ughade .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Rohan Hogle ib Waseem Shaikh for the applicant.
Mr.S.H. Yadav, APP for the State.
PSI Y.B. Kadam from Murbad police station

CORAM: BHARATI DANGRE, J.

DATED : 14th OCTOBER, 2022

P.C:-

1 The applicant is charged for the offences punishable under Section 323, 324, 325, 326, 307, 341, 188, 143, 147, 148, 149, 452, 201 IPC r/w Section 37(1) and 135 of the Maharashtra Police Act and Section 3 and 27 of the Arms Act.

2 The subject C.R was registered with Murbad police station in the wake of the allegation that on 3/6/2020, when Akash Ughade was riding on the motor cycle with Chetan Ughade, accused Mahendra Ughade restrained him from proceeding and mounted assault by means of a sword.

3 The complainant Ramesh Ughade referred to the feud between the two factions of a family and he allege that on 3/6/2020, when an assault was mounted on Akash, he intervened and found 16 known accused persons armed with sword, iron rod, bricks. The complainant attribute specific role to Yogesh Ughade, who is alleged to have assaulted by means of a sword in his head and Akash is said to have assaulted the complainant by iron rod. It is further alleged that the 16 persons who were armed with various weapons assaulted Akash, Shobha, Bavshya, Chetan, Ushabai, Sadanand, Kiran and caused grievous injuries.

 In support of the case of the prosecution, statements of several witnesses are recorded, which include Akash Ughade, Chetan Ughade, Sadu Ughade, Kavita, Madhukar Ughade and Mamta Ughade. The submission of learned counsel is, though the presence of the applicant is mentioned by the said witnesses, there is discrepancy in the description of the weapon, which he was holding and no specific overt act has been attributed to him, though collectively the assault is mentioned.

4 The injury certificates are also compiled in the charge-sheet, and on it's perusal, it can be discerned that Nathuram Ughade has sustained four grievous injuries and another injured, is Akash Ughade who sustained two grievous injuries. Apart from this, Chetan Ughade has also sustained two grievous, apart from Vishal who sustained various grievous injuries as mentioned in the injury certificates.

No doubt, the offence is serious and it appear that all the accused persons have collectively mounted assault on Akash and the persons accompanying him, who came to his rescue. The applicant came to be arrested on 18/6/2020.

5 The accused nos.1 to 11 filed an application u/s.439 Cr.P.C before the Addl. Sessions Judge, Kalyan and by recording that all the accused had formed an unlawful assembly and they were armed with sword, iron pipes, rods, bricks, assaulted the informant and the injured witnesses. Looking to the seriousness of the injuries, application came to be rejected.

However, the learned counsel has invited my attention to the subsequent Bail Applications filed by some of the accused which include co-accused Mangesh Ughade and Yogesh Ughade, Dinesh Ughade, Pundlik Ughade, Nilesh Ughade and all the said orders are placed on record.

6 On perusal of the said order, it can be seen that on the application being preferred for the second time, the Addl. Sessions Judge, Kalyan set them at liberty by distinct orders found in 2021, by recording that the respective applications are second bail Applications and are filed at the stage when the investigation is over and charge-sheet is filed.

It is also recorded that the statement of the informant as well as the injured is recorded u/s.164 Cr.P.C and even the weapons are also seized. The learned Judge, in case of Yogesh

Gopal Ughade has specifically recorded as under :-

“3 Admittedly this is a second bail application. Now the investigation is over and charge-sheet is filed against accused. This court is subjudice with the charge-sheet. I perused the charge-sheet. As per the statement of the injured, statement of the informant and statement recorded u/s.164 of Cr.P.C, it is found that the accused is alleged to be armed with iron rod at the time of the incident. Iron rod is seized as per the statement of accused Mahendra. That on perusal of the medical certificate the injuries caused by hard and blunt object are simple in nature. All the injured are now reported to be safe. The informant and witnesses along with the accused have previous dispute. There are counter FIR filed. Co-accused Ganesh and Umesh who are attributed similar role are released on bail. Since the investigation is over and since the charge-sheet reveals the role of the applicant is armed with rod and the injuries caused are simple in nature and that accused is in custody since 18/06/2020, since it will take much time to initiate the trial due to pandemic situation and since co-accused with similar role are granted bail I find the accused can now be released on bail on merits and on the principle of parity.”

7 Similar reasoning is adopted in case of all co-accused who are released on bail and the learned counsel make a categorical statement that the applicant did not chose to prefer a second Bail Application with the result that except co-accused Mahendra, Ravindra and one Hritik Pundlik and the present

applicant are suffering detention, whereas the other co-accused who are attributed a more serious role by the complainant and the witnesses are enjoying the liberty.

Admittedly, the prosecution has not challenged the bail orders, releasing the co-accused on bail.

8 In the wake of the above, even the applicant is entitled to be released on bail, as the role attributed to him is of lesser significance than the co-accused who are already released on bail. Hence, the following order :-

ORDER

- (a) The Applicant – Bhalchandra Raghunath Ughade in connection with C.R.No.207/2020 registered with Murbad Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall mark his attendance on 1st Monday of every month between 3.00 pm to 5.00

pm till framing of charge. The applicant shall attend the trial on regular basis.

- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)