

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4272 OF 2021

Shri Harishchandra @ Jaggu
rago Magar & Another .. Applicants
v/s.
The State of Maharashtra .. Respondent.

Mr. Vinod Kashid, for the Applicants.
Smt. Veera Shinde, APP for the Respondent-State.
P.S.I. Shri D. M. Deshmukh, Kalyan Taluka Police Station, present.

CORAM: BHARATI DANGRE,J.
DATED : 12th SEPTEMBER,2022.

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P. C.:

The two Applicants before me are the father and son who are facing a charge under Sections 307, 326, 324, 323, 504, 506 read with Section 34 of I.P.C.

2 The incident which incriminate them in CR No.339 of 2021 is alleged to have taken place on 8/06/2021 and they came to be arrested immediately.

3 Heard Mr. Kashid, learned Counsel for the Applicants and Smt. Shinde, learned APP, for the State. With their assistance, I have perused the charge-sheet which has compiled the material against the accused.

The Complainant is one Bhalchandra Sakharam, who reported to the Kalyan Taluka Police Station, that he is residing on the given address and he had started construction of a new house. The new house has one window on the ground floor, which was

proposed to have its opening in the direction of the neighbour's house Harishchandra Rao, who was residing there along with his son and on an earlier occasion, there were some quarrel between them on this count. They were not on talking terms since the month May, 2022.

4 The incident which resulted in the registration of the CR, is alleged to have been taken place on May, 2021. When the complainant was in the market, he was stopped by the two accused persons and questioned about the window opening in the direction of their house. The Complainant responded by stating that he would shut the window, but his response did not satisfy the accused-person and it is alleged that the Applicant No.1 assaulted him by means of a wooden rod which caused injury on his right hand elbow.

In order to avoid the assault, when the Complainant raised his hand, he sustained injuries on the right hand. At that time, the Applicant No.2 is said to have assaulted by means of pointed weapon in his head on the left and right side.

5 The Complainant was admitted to the hospital and he sustained 5 injuries as under:-

- (1) *CLW on forehead – 7.8 cm long and 2cm deep*
- (2) *CLW on right temple – 4.5 cm long and 1.5 cm deep*
- (3) *CLW on right elbow – 2 cm long and 3 cm deep*
- (4) *CLW on left knee – 1.5 cm long and 2 cm deep*
- (5) *Laceration on dorsal left head of 2nd metacarpal fractures.*

Apart from this, there is also reference of four fractures to

the hands which are described as under:-

- (1) Chip # at lower end of humerus (left epicondyle)*
- (2) Comminuted # at distal end of 2nd metacarpal (left hand)*
- (3) Displaced # at distal end of 2nd metacarpal (right hand)*
- (4) # at proximal end of proximal phalanx of 5th with soft swelling (right hand).*

The weapon that is alleged to have been used for causing the injury is recovered by drawing the panchanama under Section 27, which include a wooden stick and iron rod.

6 Considering the version of the Complainant and the corresponding injuries which are referred to in the Certificate, it can be seen that the Applicants are responsible for causing the grave injuries under Section 326 of the IPC.

7 As on date, the material collected during investigation is compiled in the charge-sheet and the trial will consume considerable time. However, taking note of the fact, that the Applicants are residing in the neighborhood of the Complainant and the dispute arose out of the proposed new house of the Complainants, the Applicants shall not step into the area where the Complainant is residing except for the purposes of reporting to the police station for marking their attendance. Hence, the following order:-

- (a) Application is allowed;
- (b) Applicant No. 1 – Harishchandra @ Jaggu Rago
Magar and Applicant No.2 – Suraj @ Arjun

Harishchandra Magar- shall be released on bail in connection with C. R. No. 339 of 2021 registered with Kalyan Taluka Police Station on furnishing P. R. Bond to the extent of Rs.25,000/- each with one or two sureties in the like amount;

The Applicants shall be released on cash bail of Rs.25,000/- each in lieu of sureties for a period of four weeks. During the said period, the Applicants shall arrange for the surities.

- (c) The applicants 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 applicants shall not tamper with evidence;
- (d) On being released on bail, the applicants shall furnish their contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change;
- (e) The Applicants shall not enter into the area of Taluka Kalyan, till framing of the charge;
- (f) The Applicants shall mark their attendance once in a three months and preferably on Saturday between 2.00 pm to 5.00 pm to the concerned Police Station;

(BHARATI DANGRE,J.)