

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.4152 OF 2022
IN
CRIMINAL APPEAL NO.1104 OF 2022**

Sachin Tanaji Jadhav

.... Applicant

versus

State of Maharashtra & Ors.

.... Respondents

.....

- Mr. Mahadeo A. Choudhari, Advocate for Applicant.
- Mr. S. R. Agarkar, APP for State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 08th FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending Appeal. The Applicant has preferred Criminal Appeal No.1104 of 2022 along with his father Tanaji Jadhav. By a separate order Tanaji is granted bail. The Applicant was convicted for commission of offence punishable u/s 326 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.1,000/- and in default of payment of fine to

suffer further imprisonment of one month. The compensation was directed to be paid to the victim.

2. Heard Mr. Mahadeo A. Choudhari, learned counsel for the Applicant and Mr. S. R. Agarkar, learned APP for the State.
3. The prosecution case is that on 02/02/2014 at about 12.15 p.m. because of earlier quarrel, the Applicant and his co-accused Tanaji assaulted Ankush Salgude and Harshal Salgude. The Applicant was carrying an Axe and the co-accused Tanaji was having a stone. The Applicant gave a blow with that Axe on the head of Harshal. Tanaji assaulted Ankush with the stone. Balaji Salgude was also assaulted with fist and kick blows. They took Rs.3,000/- from him. Harshal and Ankush were taken for treatment to a hospital. Balaji Salgude lodged his FIR. The investigation was carried out and the Applicant and his father faced the trial. They were convicted. The Applicant was convicted as mentioned earlier. Tanaji was convicted for

commission of offence punishable u/s 324 of the IPC and was sentenced to suffer rigorous imprisonment for one year.

4. Learned counsel submitted that the incident took place near a civil hospital and yet the injured took the treatment in a private hospital. Therefore there is serious doubt about the actual injury suffered by Harshal. The FIR was lodged belatedly in the night though the incident had taken place at 12.30 p.m. There is nothing to show that the CT scan was actually conducted. He relied on the evidence of Baban Salgude who was the Pancha in whose presence the clothes of the injured Harshal and Ankush were produced. In the cross-examination he has stated that Balaji and Harshal were present at the time of Panchanama. According to learned counsel for the Applicant, this was not possible because as per the prosecution case Harshal was already admitted to the hospital at that time. According to learned counsel for the Applicant this casts a serious doubt about the entire prosecution story. He further submitted

that there is no connecting piece of evidence in the form of C.A. certificate.

5. Learned APP opposed these submissions. He relied on the evidence of the victim, the eyewitness and the Medical Officer.

6. I have considered these submissions. The prosecution has led evidence of the victim Harshal and Ankush. They have narrated the incident consistently. Their evidence is supported by the evidence of PW.1 Balaji Salgude who was the first informant. There is medical evidence in the form of P.W.8 Dr. Dattaprassanna Katikar. He has narrated that Harshal was brought to his hospital with history of assault. He examined him at about 01.00 p.m. on 02/02/2014. He was conscious but confused. There was CLW over occipital region of the size 5 x 5 cm. He carried out CT scan of his brain, which showed depressed fracture of right parietal bone with over lying soft tissue scalp swelling and underlying small contusion over the right parietal

lobe. He was treated by suturing the CLW and giving necessary medication. He was discharged on 12/02/2014. Ankush had suffered two injuries. One was CLW at fronto parietal region and the other was abrasion at left thigh.

7. At this stage, there is sufficient direct evidence of the victim and the eyewitness. Though there is no other independent witness supporting the prosecution case, the evidence of the victims cannot be ignored. Their evidence is supported by the medical evidence. Therefore, at the stage of consideration of bail, there is sufficient material against the Applicant. Therefore, I am not inclined to grant bail to the Applicant. The Application is rejected.

8. Considering that the sentence imposed is for five years, hearing of the Appeal is expedited.

(SARANG V. KOTWAL, J.)