

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.4371 OF 2021

Samir Vinayak Chonkar

...Applicant

V/s.

The State of Maharashtra

... Respondent

NILAM
SANTOSH
KAMBLE

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Mr.Vidyadhar V. Gangurde i/b Mr.Satish B. Patil, for the
Applicant.

Ms.P.N. Dabholkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th AUGUST 2023

P.C:-

. By this Application, Applicant is seeking bail in
Crime No.75/2019 registered with Badlapur Police Station for
the offence punishable under Sections 307, 326, 324, 323, 504
and 506 (2) of the IPC and Section 37(1) and 135 of the
Maharashtra Police Act.

2. The case of prosecution in brief is as under:

On 20th April 2019 Complainant Sushant Vilas
Chambhawane lodged report to Badlapur (W) Police Station

alleging that the Applicant was digging near his house. There was disagreement with them and sudden quarrel took place between them. The Applicant assaulted the Complainant with iron rod on his head and attempted to commit murder. On that report FIR was lodged against the Applicant in above referred offences.

3. The learned counsel for the Applicant submitted that, Applicant had acted in self defense. The Complainant had assaulted the Applicant, hence, cross complaint was filed against the Complainant under Section 324 of IPC. The Applicant had also sustained injury by assault of Complainant. The medical certificate produced with the charge-sheet shows nature of injuries are simple, which is not supporting with the allegations of attempt to murder alleged by the Complainant. The Applicant is in jail since more than 5 years. He is sole bread earner of his family. Hence, requested to allow the Application.

4. The learned APP submitted that Applicant assaulted the Complainant with iron rod on his head. Trial Court has rejected the Bail Application filed by the Applicant. While

rejecting the Bail Application Trial Court has observed that there are two medical certificates, one shows nature of injuries simple whereas private hospital shows the nature of injuries grievous. When x-ray of the injuries was taken it shows hairline fracture to the rib. It shows the assault made by the Applicant was deadly assault. If Applicant is released on bail he may threaten the Complainant and trial may be delayed. Hence, requested to reject the Application.

5. I have heard both learned counsel.

6. After the assault Complainant was referred to medical examination. The medical certificate shows the nature of injuries are simple. Whereas it is contention of the learned APP there was hairline fracture to the rib of the Complainant. The Applicant is behind bar since more than four years. Investigation is completed. Charge-sheet has been filed. In pending trial yet charge has not been framed. No one knows how many months it would take to conclude the trial. The Applicant is sole bread earner of the Family. Cross complaint is filed against the

Complainant. Considering above facts no further detention of the Applicant is required.

7. In view of above, I pass following order.

ORDER

- (i) The Applicant be released on bail in Crime No.75/2019 registered with Badlapur Police Station, on his furnishing PR bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) After his release from jail the Applicant shall attend the Badlapur Police Station once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till the conclusion of the trial.
- (iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)