



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.91 of 2024
IN APPEAL/28/2024**

1. Baburao s/o Vitthal More
Age: 60 years, Occu.: Agriculture,
R/o.Ghatnandra Shivar, Tq.Sillod,
Dist.Aurangabad.
2. Yogesh s/o Baburao More
Age: 33 years, Occu.: Agriculture,
R/o.Ghatnandra Shivar, Tq.Sillod,
Dist.Aurangabad. ..Applicants

Versus

- . The State of Maharashtra
and Another ..Respondents

...
Advocate for Applicants : Mr.Nilesh S.Ghanekar
APP for Respondent no.1 : Mr.S.M.Ganachari

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 18 JANUARY, 2024
PRONOUNCED ON : 29 JANUARY, 2024**

ORDER :-

1. This is an application for suspension of sentence and grant of bail by virtue of conviction awarded by learned Additional Sessions Judge (Court No.6), Aurangabad in Sessions Case No.66 of 2020 dated 07-12-2023.

2. In support of relief, learned Counsel for the applicants would submit that in all four persons were chargesheeted, two are convicted, whereas two are acquitted from charge under Section 307 r/w 34 of the Indian Penal Code (IPC). According to him, present applicants are convicts. That occurrence took place on account of pending civil dispute. According to him, inspite of occurrence taking place on 26-05-2019, FIR is lodged after two days i.e. on 28-05-2019. He submitted that there are allegations of use of axe and iron rod respectively, but injuries are simple in nature. Further according to him, applicants were on bail during trial. That accused no.1 has recently undergone angiography. For all above reasons, he prays for suspension of sentence and grant of bail.

3. While opposing the application, learned APP would point out that offence is serious. On meticulous scrutiny of evidence, out of four accused, two are convicted. That there is use of weapons like axe and iron rod. He also points out to the medical evidence i.e. evidence of PW7 Dr.Aniruddha Ramchandra Gaikwad and injury certificate issued by him.

Thus, according to him, it is not a fit case for suspension of sentence and grant of bail.

4. On going through the papers, it seems that complaint is at the instance of informant PW1 Rameshwar. According to him, there was dispute over agriculture land between informant and accused party. On 26-05-2019, he has alleged that while he was sitting with his brother, accused approached him, gave abuses and issued threats to kill. According to him, initially there was beating by kick and fist blows. He deposed that accused Baburao was holding axe and he gave blow on the head of the informant, whereas accused Yogesh, who was armed with iron rod, hit it on the leg and wrist of informant. When brother of informant namely Ganesh came to his rescue, he was also assaulted on the back.

5. Prosecution seems to have examined PW7 Dr.Aniruddha Ramchandra Gaikwad and PW8 Dr.Rama Trimbakrao Mohite. PW7 Dr.Gaikwad seems to have examined patient Ganesh whereas PW8 Dr.Mohite seems to have examined informant

Rameshwar. In his evidence at exh.70, PW8 Dr.Mohite deposed about receiving history of assault and noticing grievous injury to leg, whereas simple injury to parietal region and occipital region and he further referred patient to Government Medical College, Aurangabad for further treatment and management.

6. Therefore, taking above discussed material into consideration, *prima facie* though there is civil dispute, present applicants allegedly approached victim informant and there is use of axe as well as iron rod. Roles of both applicants are distinctly spelt out. Taking into consideration the nature of weapons, sites of injury, though, two out of three injuries on the person of informant to be simple, apparently conviction is for offence under Section 307 r/w 34 of the IPC. Mere plea about applicants to be on bail during trial is no good ground to grant relief as prayed. No document is placed on record in support of alleged heart ailment of accused no.1. Therefore, in the totality of above discussed material, it is not a fit case for suspension of sentence and grant of bail. Hence, I proceed to pass following order :

ORDER

Criminal Application No.91 of 2024 is rejected.

(ABHAY S. WAGHWASE)
JUDGE

SPT