

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

**INTERIM APPLICATION NO.99 OF 2024
IN
CRIMINAL APPEAL NO.21 OF 2024**

Gurudas Haridas Lungse	Applicant
Versus	
State of Maharashtra	Respondent

Mr. Ritesh Thobde, Advocate a/w. Ankita P. Rai, Zubi Ansari,
Changdev Shingade, for the Applicant.

Smt. M.R. Tidke, APP for the Respondent-State.

Mr. Nikhil Adkine, Advocate for the first informant.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd JULY, 2024

P.C. :

1. The Applicant was the original accused No.1 in Sessions Case No.181/2019 before the Additional Sessions Judge, Barshi, District-Solapur. He was convicted for commission of the offence punishable under Sections 307 of IPC. His wife-accused No.2 was acquitted from offence punishable under Section 307 of IPC. The Applicant along with his wife-accused No.2 were convicted for the offence punishable under Section 323 read with Section 34 as well

as Section 506 read with 34 of IPC. They were acquitted from the offence punishable under Section 504 read with Section 34 of IPC. The Applicant is in custody for about seven months.

2. Heard Shri Ritesh Thobde, learned counsel for the Applicant, Smt. M.R. Tidke, learned APP for the Respondent-State and Shri Nikhil Adkine, learned counsel for the first informant.

3. Learned counsel for the Applicant submitted that the incident arose between the two brothers and it is alleged that the Applicant and his wife, who is the other accused, assaulted the first informant and his wife. The first informant was his own brother. There was a land dispute and, therefore, the incident has taken place. There was no intention to commit murder. Therefore, the conviction under Section 307 of IPC is not proper.

4. Learned counsel for the first informant appeared before the Court and tendered an affidavit of the first

informant, wherein it is mentioned that both the parties have decided to stay together. The affidavit dated 23.7.2024 is taken on record and marked 'X' for identification. In the interest of their future generation and the other elders, the brothers have decided to live peacefully and, therefore, he is insisting that the Applicant be granted bail during pendency of the Appeal.

5. Learned APP opposed these submissions. According to her, the Applicant has caused serious injuries with sickle and, therefore, he does not deserve to be released on bail.

6. I have considered these submissions. The incident is dated 27.2.2019. There are allegations that because of the land dispute, the Applicant assaulted his brother Vilas with sickle on his head, palm and other parts. When Vilas's wife PW-3 Sharada went to save him, she was also assaulted by the Applicant with sickle on her head, neck, left arm, left thigh causing injuries. The injury certificate shows that Vilas has suffered one incised wound

on the occipital region, which is a major injury. His wife Sharada suffered four injuries. One of the injuries was on the head. The injuries are described as grievous injuries in the certificate produced on record at Exhibits-38 & 39. Therefore, the prosecution has proved that the Applicant has assaulted both the victims. However, the Applicant had sufficient opportunity and weapon with him to cause more damage and to commit murder if that was his intention. Therefore, whether the offence under Section 307 of IPC is made out or not, will have to be finally decided at the final hearing stage.

7. However, the court can take into consideration the fact that the Applicant was on bail during trial and there was no further escalation of any dispute between the brothers. The first informant has filed affidavit giving no objection for releasing the Applicant on bail for the sake of their family and future generation.

8. Considering all these aspects and since out of seven years, the Applicant is in custody for almost one year, the Applicant can be released on bail pending his Appeal.

9. Hence, the following order:

ORDER

- (i) During pendency and final disposal of Criminal Appeal No.21/2024, the Applicant is directed to be released on bail on his executing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

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