

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAILAPPLICATION NO. 2502 OF 2014

1. Mr. Amol Ramchandra Yedke)
2. Mr. Mayuresh Ramchandra Yedke)..Applicants / Accused
Nos. 1 & 2.

vs.

The State of Maharashtra

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Respondents

Mr.Rupesh Bhalshankar a/w Ms. Sheetal S. Pawar,Advocate for the applicant
Ms.R.V.Newton, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 22nd December, 2014.

P.C.

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 24.7.2014 in Crime No.305 of 2014 registered at Shivaji Nagar Police Station, Mumbai for the offences punishable under Sections 307, 323, 504 read with Section 34 of Indian Penal Code. The investigation is completed and charge sheet is filed.

2. It is the case of the prosecution that on 24.7.2014, Dilip Gupta lodged a report at the police station alleging therein that on that day, Rakesh

Gupta, who happens to be the son of his sister-in-law, had called him at Shivaji Nagar. He had obliged. While he was on his he was attacked by the present applicants and their mother. It is alleged that the present applicants had assaulted with the iron rod on his head and other parts of the body. He was referred to Shatabdi Hospital and from there he was transferred to Sion Hospital, was admitted in the ICU and had taken treatment.

3. It is pertinent to note that there is a cross-complaint by the present applicants. That Crime No.306 of 2014 is registered against the complainant on the basis of the report lodged by Mayuresh Yedke i.e. the applicant No.2. In the present case. It is also in respect of the same transaction.

4. it appears from the recitals of the FiR that there is a civil dispute pending between the Gupta family and the Yedke family. That the City Civil Court has passed a verdict against the Gupta family. Being aggrieved, they have filed an appeal in the High Court. From the perusal of the papers of investigation, it appears that the investigating officer has recorded the statements of eye-witnesses who have specifically alleged that the complainant party had abused the wife of one of the applicants. In the course of investigation, the investigating officer has recorded the statements of the present applicants under

5. Section 161 of Cr.P.C. Similarly , statement of Surendra Agarwal would indicate that at the relevant time, the Gupta family members were abusing the present applicants and their relatives. That the female folk of the Gupta family had initially assaulted the mother of the applicants with fist and kick blows and at that time, the present applicants had been enraged and were trying to defend themselves. They had acted in self-defence. The medical evidence shows that the complainant had sustained simple injuries and was discharged from the hospital forthwith. There is no evidence of fracture or any other grievous injury. It appears that it was a personal dispute between both the families and that the said incident had occurred on the spur of the moment without any premeditation. Hence, the applicants deserve to be enlarged on bail.

5. The observations made hereinabove are prima facie in nature and shall not be considered for quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed. The applicants be enlarged on bail on

each furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicants shall report to the concerned police station on first Sunday of every month for a period of six months between 10 a.m. to 12 noon.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)