

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 561 OF 2015
WITH APPLN/738/2015 IN APPLN/561/2015

AVINASH BHIMRAJ KAKDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant: Mr. Chatterji Joydeep/
Mr.A.D.Avhad.
APP for Respondent: Mrs. M. A. Deshpande.

CORAM: T. V. NALAWADE, J.
DATED: 24th FEBRUARY, 2015.

PER COURT:

1. The application is filed for relief of anticipatory bail.
- 2, Both the sides are heard.
3. This Court has perused the papers of investigation.
4. The crime is registered on the basis of report given by one Ravindra Mhaske. He was Deputy Sarpanch of the village at the relevant time i.e. On 23rd December, 2014. There is some political rivalry between the applicant and the complainant. It is the case of the complainant that Shashikant, son of present Applicant, was defeated in election and he was contesting election from the panel of the complainant but Avinash thought that complainant had not

supported Shashikant and so he was defeated. The incident of quarrel had taken place due to this suspicion of Avinash.

5. Allegations are made that on 23rd December, 2014 at about 09.00 a.m. when the complainant was coming out of one temple present Applicant, Narayan Kakade, Swapnil Deshmukh and Uddhav Kakade came together and they picked up quarrel. It is contended that they started assaulting him with kick blows and fists and he collapsed on the ground. Allegations are made that applicant Avinash said that he would finish the complainant by driving vehicle over him and actually he drove INDICA Car at the complainant. The left leg of complainant came under the wheels of the four wheeler and he sustained fracture injury. He was first taken to Sub District Hospital, Pathardi on the basis of requisition made by the police. History of assault was given. As per advise given, the complainant was taken to private hospital. Fracture injury was found on his left ankle joint and so the injury is described as grievous injury. Thus, there is record to show that immediately after the incident on 23rd December, 2014 the complainant had approached police first and police had referred him to Government Hospital. There are statements of eye witnesses which are consistent with the aforesaid allegations made by the complainant. The crime is registered for offence punishable under section 307, 149 etc. of I.P.C.

6. The learned counsel for the Applicant submitted that this Court has granted relief to other four co-accused. The role played by the other persons was negligible and the main allegations are against the present applicant. So, the parity does not apply in favour of the applicant.

7. Learned counsel for the applicant submitted that the side of the applicant had filed application before the Collector for cancellation of the membership of the complainant to village Panchayat. He has produced a copy of order made on application given by one Narayan Laxman Kakade, who is the co-accused of the present case and the order dated 23rd December, 2014 shows that the membership of the complainant came to be cancelled. It was submitted that due to this political rivalry false report was given by the complainant. This submission cannot be accepted at this stage in view of the aforesaid circumstance. Further the time of the incident was much prior to 11.00 a.m. on that date and even if at all the order was declared by the authority it must have been declared after 11.00 a.m. In view of this circumstance, this Court holds that it is not possible to accept the submission that there is false allegations against the applicant. Considering the seriousness of the offence and the allegations made against the applicant that he had intention to finish the complainant, this Court holds that no protection can be given. Custodial interrogation is must in

such case.

8. In the result, application stands rejected.

9. Criminal Application No.738 of 2015 filed for permission to assist learned A.P.P. is allowed and disposed of.

[T. V. NALAWADE, J.]

Dt.24/02/2015
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