

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1917 OF 2015

Parshuram Fulchand Gurkhude
Age-34 years, Occupation-Agriculture
& Business, R/o. Chhapkhana Galli,
Beed, Tq. & Dist. Beed

[At present in Magisterial Custody
in District Prison, Beed]

.. Applicant
[Accused]

Vs.

The State of Maharashtra,
Through Police Station Beed (City)
Dist. Beed

.. Respondent

.....

Mr. S.J. Salunke, Advocate for the applicant
Mrs. B.B. Gunjal, A.P.P. for the respondent-State
Mr. Swapnil S. Patunkar, Advocate i/b J.P. Legal
Associates for the complainant

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CORAM : M.T. JOSHI, J.

DATED : 30/04/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by Beed City Police Station, Dist. Beed in Crime no.30 of 2014 for the offences punishable under section

307, 143, 147, 148, 149, 323, 504, 506 r/w. 34 of the Indian Penal Code and under section 4/25 of the Indian Arms Act, is praying for his release on bail.

3. His earlier application bearing Criminal Application no.4378 of 2014 was allowed to be withdrawn by this Court on 5/9/2014 with liberty to file similar application in case the trial is not concluded within a period of six months. Since the trial is not concluded within six months, the present application.

4. The complaint as well as the statement of the concerned witnesses would show that the present applicant alongwith others had assaulted two persons in two different instances in the same night. Some other named co-accused have joined in assaulting those injured. So far as present applicant is concerned, the allegations are that in first of the incident, he has assaulted one Rajendra Kale with a sword in which the right hand thumb was amputated due

to the assault and the injuries to his wrist and to the head was caused. In another incident, Ashok Kale was injured by the present applicant with a sword on his thigh. The injury certificates regarding the injured would corroborate the same.

5. Mr. Salunke submits that there are cross complaints. Both the injured are now hale and hearty. Though, the chargesheet is filed on 7/7/2014, the case is yet to be committed. Even during the interim period of bail, the present applicant has abided by all the conditions and surrendered as per the direction of this Court. In the circumstances, relying on the ratio of the Supreme Court in the case of **"Dr. Shivaji S/o Raosaheb Sanap V. State of Maharashtra"** in Criminal Appeal No. 2123 of 2013 and the order dated 3/3/2015 passed by this Court in other crime i.e. in Criminal Application no. 786 of 2015 (**"Aamer Ali Bin Biles (Chaus Vs. The State of Maharashtra"**) and order dated 5/2/2015 passed in Criminal Application no.52

of 2015 ("**Fares Ali Bin Biles (Chaus) Vs. The State of Maharashtra**"), he submits that the applicant be released on bail.

6. Learned A.P.P. opposed the application.

7. In the case of "**Dr. Shivaji Sanap**" (cited supra), Mr. Salunke submits that the said case was for the offence under the provisions of Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994. In the case of "**Aamer Ali**" and "**Fares Ali**" (cited supra), this Court has released those accused on bail for the offence punishable under section 307 and 302 of the Indian Penal Code. The facts and circumstances of the case were taken into consideration wherein the principal accused had received a penetrating wound to his stomach and even the knife was required to be removed from the omentum by surgery. This injury was caused to him in the same incident. In the case of "**Fares Ali**", it was found that he was not the principal accused.

8. Considering all the facts on record and more particularly, finding that in two separate instances, this applicant has allegedly caused injuries to two different victims and the counter-case filed would show that admittedly one of the injured in one of the separate instance has assaulted other persons (not the present applicant – Parshuram) by stick and fists, in my view, this is not a fit case for releasing the applicant on bail though the trial is not concluded within six months.

9. Mr. Salunke however submits that the Sessions case is yet to be committed.

10. It is regrettable to note that though the chargesheet is filed on 7th July, 2014, the concerned Judicial Magistrate First Class has not taken any care to see that the case shall be immediately committed to the Sessions Court even if the same is of an under-trial prisoner.

In the circumstances, the Principal District and Sessions Judge of the concerned district is directed to look into the matter and see that the case is immediately committed and the learned Sessions Judge shall expedite the hearing in the matter.

11. With these observations, the application is dismissed.

[M.T. JOSHI]
JUDGE

arp/-