

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 3919 OF 2015.

RAMKISHAN GANPATI BHALERAO & OTHERS.
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Milind Patil, Advocate for the Applicants.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 7th August, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of regular bail in connection with CR No.51/2015 registered with Police Station, Chakur, District - Latur for the offences punishable under Section/s. 307, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code.

[2] Heard Mr. Milind Patil, learned counsel for the Applicants and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the Respondent - State of Maharashtra.

[3] The Applicants are arrested on 24th February, 2015 and since then they are in jail.

At the outset it is to be mentioned that, investigation is over and Charge-Sheet is already filed in the court of law. Applicant No.1 Ramkishan and injured – Jagannath are real brothers. Another injured – Gagandeep is the son of Jagannath. Long standing dispute was going on in between two brothers on account of partition of the agricultural land.

[4] According to the First Information Report, on the date of occurrence i.e. on 20th February, 2015 quarrel took place in between two brothers. That time, Applicant No.1 – Ramkisan gave a axe blow on the head of Jagannath; where-as Applicant No.1 – Mithun gave katti blow on the left arm of Jagannath, where-as, Applicant No.3 – Devidas gave stick blow on the legs of Jagannath.

Statement of Gangandeep would reveal that, when he tried to intervene the matter, that time, he was also assaulted.

[5] From the statements of Jagannath and Gangandeep there cannot be dispute that at least prima facie that they were assaulted by the present Applicants. In so far as role attributed to Applicant No.2 – Mithun and Applicant No.3 – Devidas are concerned, it is clear that they have not given any blow on the vital part of Jagannath, therefore, prima facie, they cannot be held responsible for the offence punishable under Section 307 of the Indian Penal Code.

In so far as Applicant No.1 – Ramkisan is concerned, though role is attributed to him that he has given axe blow on the head of Jagannath, from the injury certificate, it is clear that he has not used the sharp side of the weapon.

[6] Looking to the fact that, investigation is over, charge sheet is already filed and injured are already discharged from the hospital, therefore, there is remote possibility of the offence being converted into more graver one.

Looking to the fact that, the Applicant No.1 has not used the sharp side of the weapon, I see no reason for Applicants' continue presence in the jail. That leads me to pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) Applicant No.1 – Ramkisan Ganpati Bhalerao, Applicant No.2 – Mithun Baburao Kamble and Applicant No.3 – Devidas Vishwanath Sonwane shall be released on regular bail on they executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] each with two solvent sureties in the like amount, in connection with CR No. 51/2015 registered with Police Station, Chakur, District - Latur for the offences punishable under Section/s. 307, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code.

(iii) Bail before trial court.

(iv) The Applicants shall attend the Police Station, Chakur, District - Latur once in a week, preferably on every Sunday between 3.00 p.m. to 5.00 p.m., till Charge is framed by the trial court.

(v) The Applicants shall further abide the conditions if imposed by the trial court.

(vi) The Applicants shall not cause any threat or tamper with the prosecution witnesses.

(vii) Observations made in this order are purely prima faice in nature and for the disposal of present Application for bail only and needless to mention, the trial court shall not be get himself influenced by any of such observations.

(viii) With this Criminal Application is allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)