

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

CRIMINAL APPLICATION NO. 6012 OF 2015

Vinayak s/o Nathu Sonwane & Ors.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr Sachin S. Panale with Mr. Kiran D. Jadhav, Advocate
for the applicants

Mrs M. A. Deshpande, APP for respondent-State
.....

CORAM : **INDIRA K. JAIN, J.**

DATE : **27TH NOVEMBER, 2015.**

PER COURT:

. Applicants are involved in Crime No. I-222 of 2015 registered at Kannad Police Station, Tq. Kannad, Dist. Aurangabad for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 341, 323, 504 of the Indian Penal Code and Section 135 of the Bombay Police Act.

2. Heard the learned counsel for parties. Perused case papers.

3. It is the case of prosecution that on 17th October, 2015 at 10:10 p.m., Deepak Jadhav nephew of complainant Vilas B. Jadhav had been to his house. Deepak informed Vilas that while he was proceeding towards their field for watering the crops applicants with others obstructed him in front of house of applicant No. 1 Vinayak near pendol of goddess. Applicants and others abused and assaulted Deepak with kicks and fists. Thereafter complainant along with his wife, son and neighbourers had been to the house of applicant No. 1 to pacify them. It is alleged that at that time complainant and witnesses were assaulted by means of sticks and stones. They sustained grievous injury on the vital part of the body. On 18th October, 2015 report was lodged.

4. Learned counsel for applicants vehemently submitted that there was no animosity between two groups. The incident occurred at the spur of moment. He submits that it was a free fight between members of two groups and there was no intention to kill anyone.

5. Learned counsel submitted that injuries caused to the injured were simple in nature and offence u/s 307 of the Indian

Penal Code would not attract considering the manner of incident alleged in FIR and injury certificates.

6. Learned counsel further submitted that applicants are permanent residents of village Makranpur and there are no chances of their fleeing from justice. It is submitted that the learned Additional Sessions Judge rejected application for bail mainly on the ground that investigation is in progress and there is likelihood of applicants indulging in similar criminal activity again.

7. Per contra learned APP strenuously submitted that offence is serious in nature. In all seven persons were injured. In case applicants are released on bail there are chances of riot in the village. Investigation is not yet complete. Weapons are to be recovered and if applicants are released on bail it would adversely affect the smooth investigation. Alternatively learned APP submitted that since complainant and accused/applicants belong to the same place, suitable condition be imposed while releasing them on bail so as to avoid untoward incident in village.

8. On perusal of certificates it can be seen that injuries to all injured were simple in nature. No previous enmity is alleged. Applicants are in custody since last one month. They were remanded to police custody. Investigation papers do not show any recovery at their instance.

9. Applicants are permanent residents of village Makranpur, Tq. Kannad and there is no likelihood of their fleeing from justice. Hence, the following order.

ORDER

- (i) Criminal Application No. 6012 of 2015 is allowed.
- (ii) Applicant No. 1 Vinayak s/o Nathu Sonwane, Applicant No. 2 Suryabhan s/o Dagadu Sonwane, Applicant No. 3 Kiran s/o Kailash Solunke and Applicant No. 4 Nitin s/o Dilip Pawar are released on bail in Crime No. I-222 of 2015 registered at Kannad Police Station, Tq. Kannad, Dist. Aurangabad for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 341, 323, 504 of the Indian Penal Code and Section 135 of the Bombay

Police Act on their furnishing P.R. and S.B. of Rs.15,000/-
(Rupees Ten Thousand only) each.

- (iii) Applicants shall not tamper with the prosecution evidence and shall make themselves available as and when required by the Investigating Agency.
- (iv) Applicants shall keep themselves away from the village Makranpur, Tq. Kannad, Dist. Aurangabad for a period of one month or till filing of charge-sheet, whichever is earlier.

[INDIRA K. JAIN, J.]

sgp