

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1637 OF 2015

1. Siddharth Bhaskarrao Gundage .Applicants
2. Samarth Bhaskarrao Gundage

v/s.

The State of Maharashtra .Respondent

WITH

BAIL APPLICATION NO.1537 OF 2015

1. Vishal Ramesh Jadhav .Applicants
2. Sunny Rajendra Sathe
3. Sanjay Shrirang Dhavan

v/s.

The State of Maharashtra .Respondent

Mr.M.S.Mohite i/b. Mr.J.G.Bardeskar, Advocate,
for the Applicants in B.A.No.1637 of 2015
Mr.S.V.Kotwal i/b. Mr.Abhishek Yende, Advocate,
for the Applicants in B.A.No.1537 of 2015
Mr.S.S.Pednekar, APP, for the Respondent – State
in both matters

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2015

P.C.

. Heard learned counsel for the
applicants and the learned APP for the

respondent – State.

2. By these applications, the applicants seek their enlargement on bail in connection with C.R.No.87 of 2015 registered with the Dahiwadi Police Station, District - Satara, for the alleged offences punishable under Sections 395, 397, 307, 336, 324 of the Indian Penal Code, 1870 and under Section 37(1)(3) r/w. 135 of the Maharashtra Police Act.

3. The incident in question has taken place on 13.06.2015 on account of dumping of murum on a piece of land which is the subject matter of dispute between the applicants and the real owner of the land(complainant is a tenant). There is a Civil suit pending between the accused and the owners of the land. It is alleged in the said complaint which is lodged by one Hanumant Dattu Khande that when he was

throwing murum on the land, the applicant Nos. 1 & 2 in B.A.No.1637 of 2015 came on the spot along with Mahesh Kharat, Siddharth Kharat, Sunny Sathe, Vishal Jadhav & Sagar Khande. It is alleged that they questioned the complainant as to why he was throwing murum on their land and started threatening him. According to the complainant, the applicant No.2 who was allegedly armed with a Sword, assaulted the complainant's son, Anil Khande. At that time, Sanjay Dhavan, the applicant No.3 in B.A.No.1537 of 2015 is alleged to have held Anil Khande. The applicant No.1 Siddharth Gundage in B.A.No.1637 of 2015 is alleged to have assaulted Satish Galande with Koyta on his head and hand. It is alleged that Sanjay Dhavan, the applicant No.3 in B.A.No.1537 of 2015 assaulted Hanumant with a wooden stick, as a result of which the complainant Hanumant sustained a fracture on his hand. It is alleged that the applicant No.1

Siddharth in B.A.No.1637 of 2015 held the complainant. It is further alleged that Vishal Jadhav, the applicant No.1 in B.A.No.1537 of 2015 assaulted Nitin Galande on his hand and on his face with a sword. It is alleged that Mahesh Kharat and Siddharth Kharat thereafter assaulted the complainant's son with a sword and abused him. It is alleged that in the said incident, a Gold chain belonging to the complainant's son was snatched by Mahesh. As far as the Applicants in B.A.No.1537 of 2015 are concerned; Applicant No.1 – Vishal is alleged to have assaulted Nitin with a sword; Applicant No.2 – Sunny is alleged to have held Satish pursuant to which Siddharth assaulted him with a koyta; and Applicant No.3 – Sanjay is also alleged to have assaulted Hanumant with a wooden stick.

4. Learned counsel for the applicants submitted that with respect to the same

incident, the applicant No.2 Samarth Gundage in B.A.No.1637 of 2015 has lodged an FIR/complaint which was registered vide C.R.No.88 of 2015 for the alleged offences punishable under Sections 143, 147, 148, 149, 324, 504, 506 of the Indian Penal Code. They submitted that the accused in the said case are Anil Khande, Satish Galande, Hanumant Khande, Sarjerao Galande, Shubham Khande and others. According to them, the aforesaid accused abused, threatened and assaulted them with plough and sickle. They submitted that the applicants have been falsely implicated in the present case. They further submitted that there is no recovery of any weapon at their instance and that the articles like plough, sickle were found on the spot.

5. Learned APP opposed the bail applications. He submitted that Hanumant the complainant and Satish Galande suffered grievous

injuries in the said complaint. Learned APP submitted that the applicant Nos.1 & 2 in B.A.No.1637 of 2015 are concerned, the applicants have antecedents. Learned counsel for the applicants submits that out of two cases, one pertains to an incident of rioting involving 15-20 persons and the second case is under the Atrocities Act and that both the applicants were granted anticipatory bail in the said case.

6. Perused the Injury Certificate of Hanumant Khande. It appears that Hanumant has suffered a grievous injury and the cause of injury was by a hard and blunt object. The site of injury was left upper limb and it is stated to be a grievous injury. The nature of injury is grievous. The injuries sustained by Satish Galande are five and it appears that the injuries are caused by hard and blunt object. Out of five injuries, four injuries are simple

in nature. The injury on the forehead is grievous in nature i.e. depressed fracture. The injury Certificate of Nitin Galande shows that he suffered an abrasion over his left ear. The said injury is stated to be simple in nature. As far as Anil Khande is concerned, he has sustained four injuries, which are simple in nature, by a hard and blunt weapon. In the cross case lodged by the applicant No.2 Samarth in B.A.No.1627 of 2015 i.e. C.R.No.88 of 2015, with respect to the same incident three persons sustained injuries. It appears that the injuries sustained by the injured in C.R.No.88 of 2015 are simple in nature and are alleged to have been caused by hard and blunt object. All the accused in the said case i.e. in C.R.No.88 of 2015 are on bail.

7. As far as the injuries alleged to have been caused to the complainant and others by

koyta/sickle, the injury certificates do not show any incised injuries. It shows that the injuries were caused by hard and blunt weapon.

8. Considering nature of allegations, the cross cases filed by both the parties, the nature of injuries sustained and the fact that the applicants have been in custody since their arrest, the applicants are enlarged on bail on the following terms & conditions:

ORDER

(i) The applicants be released on bail in connection with C.R.No.87 of 2015 registered with the Dahiwadi Police Station, District - Satara, on executing P.R.Bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount;

(ii) The applicants shall not tamper or attempt to contact the complainant or any witness concerned with the said case;

(iii) The applicants shall inform their latest place of residence and mobile numbers immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Dahiwadi Police Station, District - Satara Police Station;

(iv) The applicants to co-operate with the conduct of the trial;

(v) The applicants shall attend the Dahiwadi Police Station, District - Satara Police Station on every Saturday between 10.00 a.m. to 11.00 a.m. till the filing of the charge sheet and thereafter, on the 1st Saturday of every month between 10.00 a.m. to 11.00 a.m. for a period of nine months after filing of the charge sheet;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be

at liberty to seek cancellation of the applicants' bail.

9. It is made clear, that the observations are prima facie for the purpose of deciding the applications and the learned Judge shall conduct the case on its own merits, uninfluenced by the observations made herein.

10. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)