

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 496 OF 2015

1 Yuvraj Motiram @ Shankar Shinde.
2 Shaikhlal Husen Shinde.
3 Genda Daji Shinde. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prashant S. Hagare, advocate for Applicants.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 11, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicants herein are arrested on 24/12/2014
in Crime No. 408 of 2014 registered at Baramati Taluka Police Station
for offence punishable under Section 307, 324, 323, 143, 147, 148,

149, 504, 506, 384, 354(B) of the Indian Penal Code and Section 4/25 of the Arms Act.

3 It is the case of the prosecution that on 19/1/2014, there was community meeting of Vaidu Community. The meeting had assembled to put an end to the quarrels between the members of the community. There was objection to the people from the village attending the said meeting. They wanted to resolve the dispute within the community itself. It is alleged that at about 10 a.m. when the complainant and others were in front of the house of Maruti Hanumant Shinde, a request was made to put an end to the dispute within the community. The present applicants alongwith others were enraged. They had assaulted the members assembled there with swords, iron rods, stick and other deadly weapons. On the basis of a report of Rahul Kulal, C.R. No. 408 of 2014 was registered.

4 Perused the papers of investigation. Upon perusal of the the injury certificate, it appears that except Hanumant Shinde, all other

persons had received simple injuries. It is stated in the FIR that Hanumant Shinde has sustained fracture of upper left lateral incisor tooth. The nature of injury is described as grievous. The injury to the tooth cannot be considered as an attempt to murder and hence, prima facie offence under Section 307 cannot be attributed. The incident has occurred on the spur of the moment in the course of the meeting of the community.

5 Learned APP submits that the applicants herein had formed an unlawful assembly and that they were armed with deadly weapons and have assaulted the victims as well as the complainant. It is further submitted that in the supplementary statement dated 28/12/2014 it was mentioned that the accused had outraged modesty of female members of the village and they have thrown chilly powder in the eyes of the complainant and other injured.

6 It is clear that all the injured have received simple injuries in the form of blunt trauma. Rahul has sustained CLW on his forehead

which appears to be simple injury. In fact, the community meeting was held to pacify the relations. It cannot be said that there was any pre-meditation.

7 The learned Counsel for the applicants submits that co-accused have been granted pre-arrest bail as the victims has sustained simple injuries at the hands of other co-accused. However, the applicants herein have been in jail for more than 45 days.

8 In view of the above observations, the applicants deserve grant of bail under Section 439 of the Code of Criminal Procedure, 1973.

9 These observations are prima facie in nature. The same shall not be considered at the time of deciding the application for discharge or for quashing of FIR or at the time trial.

10 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In Crime No. 408/2014 registered at Baramati Taluka Police Station, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall not reside in Zargadwadi till filing of the charge-sheet.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)