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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.598 OF 2015

Mahesh Dasharath Mhatre and Ors.

... Applicants
(Orig.Accused Nos.1,2,3)

V/s.

The State of Maharashtra

... Respondent

Ms.K.H.Rajani i/b Mr.Jaideep S. Thakker, for the Applicants.

Mr.Y.M.Nakhwa, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATED : 27th APRIL, 2015.

PC.

1. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State.

2. By this application, the Applicants seek their enlargement on bail, in connection with C.R.No.I-18 of 2015 registered with the Ambernath Police Station, Thane, for the alleged offences punishable under Sections 307, 326, 323, 504, 506, 147, 148, 143, 149 of the Indian Penal Code.

3. The incident in question is alleged to have taken place on 22nd

January, 2015. It appears that there was some business transaction between the complainant – Shakti Bhalekar and applicant no.1 and that some amount was due and payable by the applicant no.1 to the complainant. It is alleged that on 22nd January, 2015 at 9.00 p.m., the complainant had gone to the house of the applicant no.1, as the applicant no.1 was not returning his money. It is alleged that at that time, the applicant no.1 started abusing and threatening the complainant and did not make the necessary payment and hence the complainant telephoned his brother – Rahul and father – Shriram, who came to the house of the applicant no.1. It is alleged by the complainant that as soon as his father and brother alighted from the vehicle, the applicant no.1 along with others, abused and threatened the complainant, his brother and father and assaulted them with fist and kick blows. Thereafter, the applicant no.1 is alleged to have assaulted the complainant with a bamboo stick on his leg and applicant nos.2 and 3 are alleged to have assaulted the complainant's brother – Rahul with a bamboo stick on his head.

4. The learned counsel for the applicant contended that Section 307 of the Indian Penal Code is not applicable to the facts of the present case. She submitted that applicant no.1 is alleged to have assaulted only the

complainant and the other two applicants are alleged to have assaulted the complainant's brother and father.

5. Learned APP has produced the injury certificate. It appears that the injury sustained by the complainant and his father are simple injuries and the weapon allegedly used by the applicants is a bamboo stick. Only the injury sustained by the complainant's brother – Rahul on his head is a grievous injury. The nature of the injury sustained by Rahul is 'Head injury with Epidural Haematoma'.

6. It appears that the incident has occurred at the spur of moment. Considering the fact that the investigation is over and charge-sheet is filed ; and also considering the manner in which the incident has taken place and the weapons used, the Applicants are enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount ;
- ii) The Applicants shall attend the Ambernath Police

Station, Thane, on 1st Saturday of every month between 10.00 a.m. to 12.00 noon., till the conclusion of the trial ;

- iii) The Applicants shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
- iv) The Applicants shall co-operate in the conduct of the trial.

7. The Application is allowed and disposed of in above terms.

8. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.

9. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)