

Anand

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

BAIL APPLICATION NO.661 OF 2015

Sagar Raju Nangare .Applicant

v/s.

The State of Maharashtra .Respondent

WITH

BAIL APPLICATION NO.1783 OF 2015

Saurabh alias Nanya Sunil Paigude .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.N.B.Kamble, Advocate, for the Applicant in
B.A.No.661 of 2015

Mr.V.S.Tadke i/b. Mr.A.Kamkhedkar, Advocate, for
the Applicant in B.A.No.1783 of 2015

Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.10.2015

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.136 of 2015 registered with the Bibwewadi Police Station, Pune, for the alleged offences punishable under Sections 143, 147, 148, 149, 307, 504 r/w.34 of the Indian Penal Code, under Section 37(1) r/w.135 of the Bombay Police Act and under Section 4(25) of the Arms Act.

3. The complainant is one Sachin Ashok Pawar. He is also an injured witness. He has alleged in the complaint lodged on 19.10.2014, that on the previous day i.e. 17.10.2014, there was an altercation between him and the co-accused Bharat Badgujar. In the said altercation, co-accused Bharat Badgujar, is alleged to have threatened the complainant. On 18.10.2014 at about 9.30 p.m., it is alleged by the complainant that when he was sitting along

with his cousin Rahul, brother Sanoj, mother and his wife Deepa opposite to his residence, co-accused Bharat Badgujar suddenly came to the spot along with his friends, including the present applicant. He has alleged that Bharat assaulted him on his head with a sword and thereafter, Sagar, Nikhil, Saurabh, Basavraj & Hyder assaulted him with sword on his hand, chest etc. He has further stated that on seeing the assault on him, his brother Rahul tried to intervene, however, all the aforesaid persons assaulted his brother Rahul on his hand, head, face and caused grievous injuries.

4. Learned counsels appearing for the applicants state that there is no specific overt act alleged as against the applicants and it is a general allegation made against all the accused, except Bharat Badgujar. They submit that there is no recovery at the behest of the

applicants. According to the learned counsel for the applicants, all the eye witnesses to the incident are the close relatives of the complainant, therefore, the possibility of falsely implicating the applicants cannot be ruled out.

5. Learned APP opposed the bail applications. She submits that the complainant -Sachin has specifically named the applicants along with other co-accused. She submits that the complainant has stated that all the co-accused including the applicants were armed with swords and all of them assaulted him and his brother, Rahul. She further submitted that there are eye witnesses, who have also disclosed the names of the applicants and that the applicants assaulted both the complainant and Rahul. She further submits that there is recovery of a sword at the instance of Saurabh

i.e. the applicant in B.A.No.1783 of 2015. She further submits that both the applicants have antecedents. She submits that as against applicant-Sagar in B.A.No.661 of 2015 there are three cases i.e. bodily related offences registered against him. She submits that as far as the applicant Saurabh in B.A.No.1783 of 2015 is concerned, there are two cases i.e. bodily related offences registered against him. She submits that charge has been framed in the said case.

6. Be that as it may, perused the charge-sheet. From a perusal of the FIR it is evident that the applicants have been named in the FIR and that the applicants were also present at the spot, at the relevant time and have assaulted the complainant and Rahul. The said statement of the complainant is consistent with the statements of the eye witnesses as well as with

the Injury Certificates. There is recovery as against Saurabh the applicant in B.A.No.1783 of 2015 and there are antecedents against both the applicants.

7. Considering the aforesaid facts, this is not a fit case to enlarge the applicants on bail. Accordingly, the Applications stand rejected.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)