

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

CRIMINAL BAIL APPLICATION NO. 1767 OF 2015

Anil Shriram Bitale & Anr. ..Applicants

v/s.

The State of Maharashtra. ..Respondents

Mr. Dilip Bodake for the Applicant
Mrs. S.S.Pednekar, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 21, 2015.**

P.C.

1. This is an application for bail filed by the applicants above named who have been arrested in Crime No. 47 of 2015 registered with Pusegaon Police Station for the offences punishable under Section 307, 334, 504, 506 r/w. 34 of the Indian Penal Code.
2. The case of the prosecution in brief is that on 21.5.2015 at about 7.45 p.m. the applicant no.1 (A2) herein called the victim Tukaram Londe to the house of the applicant no.2 (A3) . It is alleged that when he reached to the house of the applicant no.2, the accused

no.1 Mahadev assaulted him with a sword, and when he tried to runaway from the spot said Mahadev and the applicants followed him and inflicted injuries on his hand and knee by means of sword. Pursuant to the FIR lodged by Sambhaji Londe, the aforesaid crime was registered initially for offence under Section 325, 504, 506 r/w. 34 of IPC. Subsequently, after recording the statement of the injured and upon considering the medical certificate the offence under Section 307 IPC instead of 326 IPC came to be registered.

3. The applicants were arrested on 23.5.2015. Upon completion of the investigation, chargesheet has been filed before the learned JMFC, Vaduj. The offence under Section 307 IPC being Sessions triable, the case has been committed to the Court of Sessions and is registered as case no. 232 of 2015. The applicants herein had filed an application before the Sessions Judge, Vaduj. The said application came to be rejected by order dated 28.8.2015. Hence, the present application.

4. The learned Counsel for the applicants has submitted that the applicants are in custody since 23.5.2015, the investigation is completed and the presence of the applicants is no longer required in

the custody. He has further submitted that the applicants are not involved in inflicting injuries on the vital part of the victim and the injuries are mainly caused by the co-accused Mahadev Londe. He therefore contends that the applicants are not involved in committing offence under Section 307 of IPC and are therefore entitled to be released on bail.

5. Mr. Pednekar, the learned APP has submitted that the applicant no.1 had called the victim to the house of the applicant no.2. He has stated that the incident was pre-planned and the manner in which the victim was assaulted clearly indicates that the victim was called to the house of the applicant no.2 in furtherance of a common intention shared by the other co-accused. He therefore contends that the material on record prima facie reveals the involvement of the applicant in commission of the offence under Section 307 of IPC.

6. I have perused the records and considered the statements advanced by the learned Counsel for the applicant and the learned APP for the State, particularly the statement of the injured, which prima facie reveals that on 21.5.2015 the applicant no.1 had called him to the house of the applicant no.2 on the pretext of returning the

money which he had borrowed from him. The statement further reveals that when he had reached the house of the applicant no.2, the co-accused i.e. Mahadev Londe along with applicant no.2 herein were present and when the victim demanded money, the co-accused inflicted injury on his left hand by means of sword. The statement of the victim further reveals that the applicant nos.1 and 2 were also involved in inflicting injury on his hand and leg. The statement of the other eye witnesses also prima facie show the involvement of the applicants in inflicting injuries on the victim.

7. The medical records prima facie indicate that the injuries were were grievous in nature. It is however to be noted that none of the injuries were on the vital part of the body. Furthermore, the applicants are in custody since 23.5.2015. The investigation is completed and the presence of the applicants is no longer required in custody. The applicants do not have criminal antecedents. They are permanent residents of Taluka Khatav, District Satara. Hence, there is no possibility of the applicants absconding and hampering the trial.

8. In the circumstances, the application is allowed on the following terms and conditions:-

- i) The applicants are ordered to be released on bail, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one solvent surety in the like amount to the satisfaction of the learned Sessions Judge, Vaduj.
- ii) The applicants shall not interfere with the complainant, the victim and the other witnesses or tamper with the evidence in any manner.
- iii) The applicants shall stay away from Revalkar Wadi, for the period of three months from the date of the order.
- iv) The applicants shall furnish to the Investigating Officer their temporary address during this period.

(ANUJA PRABHUDESSAI, J.)