

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1792 of 2015

Babaso Balkrishna Nimbalkar and ors. ..Applicants.
vs.
The State of Maharashtra. ..Respondents.

Mr. Anand S. Patil, Advocate for the Applicant.
Mrs. P.P.Shinde, APP. for the State.
Mr. S.S.Kavitake, PSI Murgad Police Station, Kolhapur is present.

CORAM : A.S. GADKARI, J.
16th October, 2015.

P.C. :

Heard learned counsel for the applicants and the learned A.P.P. for the State.

2) This is an application for regular bail under Section 439 of the Criminal Procedure Code by the applicants who are accused persons in C.R.No.49/2015 registered with Murgud Police Station, District Kolhapur under Section 307, 324, 143m 148, 149 of the I.P.C. and under Section 135 of the Bombay Police Act. The complainant Anil Pandurang Dandavate has lodged First Information Report on 6.7.2015 thereby stating that on 5.7.2015 at about 9.00 p.m. when he along with his friends Manoj Salokhe and one Subhash were proceeding to the

house of Manoj, the applicants near Sutargali encircled them i.e. Anil Dandavate and Manoj Salokhe and assaulted them with sharp edged weapon. The complainant Anil Dandavate received injuries on his left hand and on the left side of the chest. He has further stated that after assaulting the said persons went towards Murgud Police Station. Said Anil Dandavate has stated that his friend Manoj Salokhe has informed him about the names of Applicant NO.5-Gajanan B. Nimbalkar, Applicant No.2-Shripati Ganpati Nimbalkar and Applicant No.1-Babaso Balkrishana Nimbalkar and 4 to 5 other persons.

3) The record further discloses that applicant No.1 Babaso has also filed First Information Report dated 6.7.2015 with Murgud Police Station stating that on 5.7.2015 at about 8.00p.m. when he had gone for taking dinner at the Dhaba at Hasurpati, Manoj Salokhe and Anil Dandavate were also there. When the applicant No.1 Babaso Balkrishana Nimbalkar came out of the said hotel after finishing his dinner, Anil Dandavate asked him to meet Manoj Bhai. When Babaso went to him, Manoj Bhai manhandled him and assaulted him with kicks and fist blows. The applicant No.1 tried to rescue himself when the said Manoj Bhai inflicted blows with knife on the face of applicant No.1. The applicant No.1 thereafter gave a phone call to his son Gajanan (Applicant No.5) and called him for help. Thereafter, one Mr. Shivaji Bhosale brought applicant No.1 in the village. When the applicant No.1 was walking on the street near the shop of Tanaji Ekale the said Manoj Bhai tried to give a dash by his car to the applicant No.1 when the

applicant No.1 dogged it. At that time said Manoj Bhai came out of the car and again tried to inflict blow of knife on the applicant No.1 when his son Gajanan (Applicant No.5) tried to ward off the said blow. That the said Manoj Bhai thereafter tried to inflict blow of knife on the stomach of Gajanan when Gajanan held the said knife in his hands and therefore, suffered injuries to both of his hands. That, Anil Dandavate (complainant in the present crime) thereafter gave 2 to 3 blows with the help of sword on the head of Gajanan. That, the applicant No.1 Babaso and Applicant No.5 Gajanan were thereafter admitted to CPR Hospital, Kolhapur. A crime has been registered on the basis of the said complaint of said Babaso Balkrishana Nimbalkar.

4) The learned counsel for the applicant submitted that the applicant No.1's complaint i.e. First Information Report dated 6.7.2015 came to be registered with Murgud Police Station prior in point of time. He further submitted that complaint i.e. First Information Report of Anil Dandavate has been recorded subsequently which is the present crime i.e. CR No.49/2015 and the same was registered on 12.52 a.m. on 6.7.2015. Upon a query made by this court to the learned A.P.P. about the progress in the investigation in the crime registered on the basis of complaint of applicant No.1, Mr.S.S.Kavitake, Police Sub Inspector attached to Murgud Police Station has submitted that in the CR registered on the basis of the complaint of the applicant No.1 herein, accused namely Manoj Salokhe has been released on anticipatory bail by the Trial Court. She further submitted that the complainant in the present case i.e. Anil Dandavate who is accused in

the crime registered at the behest of the applicant No.1 Babso Balkrishana Nimbalkar is not traceable and absconding. I am surprised to hear the said submission as the complainant in the present crime Anil Dandavate alleged that the applicants herein have assaulted the said complainant Anil Dandavate on his left hand and on the left side of the chest and who according to police after registering the present crime is absconding. The said submission is unacceptable as it appears devoid of any merits. It further appears to me that the Investigating agency is not investigating both the crimes in proper and impartial manner and the police are trying to shield the accused persons in a crime registered on the basis of the complaint registered by applicant No.1 herein. It is to be noted here that both the cases are cross cases and the incident in question cannot be disputed. However, who were the aggressor is a fact to be determined at the time of trial. In view of the above, I am of the considered opinion that the offence registered against the applicants by Anil Dandavate is clearly an after thought.

2) In view of the above, I am inclined to allow the present application on the following terms.

a) The applicants shall be released on bail on their furnishing P.R. bond in the sum of Rs.10,000/- each with one separate surety for each of the applicant in the same amount.

b) The applicants shall report to the local police station i.e. Murgud Police Station once in a month i.e. on first Monday of every month till the filing of the charge-sheet and thereafter once in three months on

first Monday of every month till the conclusion of the trial.

c) Application is allowed in the above terms.

(A.S. GADKARI, J.)