

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2798 OF 2016

- 1] Kunal Vasant Patil
- 2] Nivrutti Atmaram Borse
- 3] Sagar Sunil Kamble
- 4] Chetan Prakash Patil
- 5] Rahul Suryakant Bhadane
- 6] Umakant Chandrakant Bhadane .. Applicants

Vs.

The State of Maharashtra and anr. .. Respondents

AND
CRIMINAL APPLICATION NO. 2799 OF 2016

- 1] Manohar Dattatraya Bhadane
- 2] Dyanjyoti Manohar Bhadane
- 3] Ram Manohar Bhadane .. Applicants

Vs.

The State of Maharashtra and anr. .. Respondents

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Mr. V.D. Hon, Sr. Advocate with Mr. P.D. Bachate,
 Advocate for the applicants in both matters
 Mr. S.J. Salgare, APP for the respondent-State
 Mr. R.S. Shinde, Advocate with Mr. N.L. Choudhari,
 Advocate for respondent no.2 in both applications

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CORAM : N.W. SAMBRE, J.

DATE : 15/06/2016

ORAL ORDER :

Heard.

2. The applicants in both applications are seeking pre-arrest bail in Crime no. 44 of 2016 registered at Azadnagar Police Station, Dist. Dhule for the offences punishable under section 307, 395, 363, 342, 504, 506 of the Indian Penal Code and under section 4/25 of Arms Act, Section 4(i)(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 3(2)(v) of the Protection of Civil Rights Act.

3. It is claimed that the incident took place on April 20, 2016, wherein the complainant was assaulted by the present applicants with various weapons, resulting into causing of injuries to the complainant. The background for registration of the crime is that late Dattatraya Bhadane, Ex. M.L.A. was having surviving legal heirs i.e. son Manohar

Bhadane and his widowed wife – Sushilabai Bhadane. There were differences between Manohar and Sushilabai and the present applicant claimed to be on the side of Sushilabai and Manohar, who was her opponent has in organised manner assaulted the complainant.

4. While trying to make out a case for grant of pre-arrest bail, Shri Hon, learned senior counsel for the applicants submits that reading of the FIR depicts an improbable story and it could be inferred from the investigation papers that the applicants are falsely implicated in the crime in question. Learned senior counsel for the applicants then would submit that of the total about seventy accused, two accused namely, Manohar and Dyanjyoti are already discharged from the offences punishable under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short "**Atrocities Act**") and reading of the allegations in the FIR will depict that the provisions of Atrocities Act are not

attracted in the matter. He would then submit that the applicants will abide by such terms, as will be imposed by this Court.

5. Shri Salgare, learned A.P.P. would strenuously oppose the application by relying upon the injury certificate and the investigation carried out. According to him, there are eye witnesses to the incident namely Surendra Nahar and Nitin Kallal, who speak voluminous about the involvement of the applicants in the crime in question. Shri Salgare, learned A.P.P. then would urge that custodial interrogation of the applicants would be very much necessary, as the cash amount and the jewellery taken away from the present complainant, is required to be recovered from the accused persons. He would submit that applicants are influential persons and there is every likelihood that they may tamper with the prosecution evidence.

6. Learned A.P.P. was ably assisted by Shri Nitin Choudhari, learned counsel and Shri R.S. Shinde, learned counsel for the complainant/respondent no.2. According to them, the complainant became unconscious and was required to be hospitalized. He would try to rely upon the photographs and injury certificates. Learned counsel for the complainant submits that there is every likelihood of the applicants tampering with the prosecution evidence and this Court should reject the present Applications.

7. With the assistance of learned counsel, I have perused the contents of the FIR. From the contents of the FIR, it appears that the complainant/respondent no.2 - Kiran Jondhale claimed to be supporting the side of Sushilabai, wife of late Dattatraya Bhadane and perhaps that is claimed to be a reason why her son, who was not in good terms with her, tried to assault the present complainant.

8. Presuming that the story, as has been narrated in the FIR that Manohar has organised the assault on the present complainant, still, the narration in the FIR that about 70 people have assaulted the present complainant, appears to be completely improbable and untrustworthy as is apparent from medical papers. Apart from above, it is to be taken note that so as to increase the gravity of the offence, the complainant has also intentionally inserted certain allegations in relation to his caste, so as to implicate the present applicants in an offence under the Atrocities Act.

9. The falsity of the crime would be apparent from the investigation papers, as when the complainant was admitted in the hospital, the injury certificate speaks of suffering only two injuries from 20/4/2016 to 22/4/2016. However, subsequent thereto, the injury certificate dated 10/5/2016

speaks of the complainant suffering four injuries, which are grievous in nature.

10. The aforesaid investigation speaks voluminous about the very conduct of the complainant himself and the likelihood of false implication of the applicants in the crime in question. In view of above, in my opinion, case for grant of pre-arrest bail is made out. Hence, the following order :-

11. In the event of the arrest of the applicants in Crime no. 44 of 2016 registered with Azadnagar Police Station, Dist. Dhule for the offences punishable under section 307, 395, 363, 342, 504, 506 of the Indian Penal Code and under section 4/25 of Arms Act, Section 4(i)(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 3(2)(v) of the Protection of Civil Rights Act, they be released on bail, upon their executing P.R. bonds in the sum of Rs.15,000/- (Rs. Fifteen Thousand) each with one

surety each in the like amount.

12. The applicants shall not tamper with the prosecution evidence or issue threats to the prosecution witnesses.

13. The applicants shall attend the concerned Police Station on 25th and 26th June, 2016 between 10 am and 12 noon and, thereafter, as and when called by the Investigating Officer.

14. The observations made hereinabove are prima facie in nature restricted only to the extent of deciding the prayer for grant of pre-arrest bail.

15. Both Criminal Applications stand disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-