

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3046 OF 2016

(1) VIJAY LAKHAN TAMCHIKAR AND
(2) JOKY @ RAKESH SANJAY MALI
VERSUS
THE STATE OF MAHRASHTRA

...
Advocate for Applicants : Shri R.N. Dhorde, senior counsel i/b Mr. V.R.
Dhorde

APP for Respondents: Ms. Rashmi Gour

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CORAM : V. K. JADHAV, J.
DATED : 18th JULY, 2016

PER COURT:-

1. Heard learned senior counsel for the applicants and learned A.P.P. for the respondent-State.

2. On the basis of the complaint lodged by Motor vehicle Inspector dated 6.2.2016, Crime No. 43 of 2016 came to be registered at Police Station, Rahuri, for the offences punishable under Sections 307, 353, 333 r/w 34 of the Indian Penal Code against the present applicants and two others. After due investigation, the Police submitted charge sheet before the Court below. The applicants came to be arrested on 7.2.2016 and they are in jail since then. Thus, the applicants preferred this application for getting released on bail.

3. On 6.2.2016, the informant got the information that excavation of sand is being taken place at Sangamner and Rahuri. Accordingly, he proceeded towards the said spot. At about 5.30 p.m., while he was proceeding on Nagar-Manmad highway, he noticed two dumpers. Accordingly he started to chase the said dumpers. The said dumpers reached near the bank of one river and drivers of the said dumpers ran away from the said spot by leaving the vehicles on the spot. It has further alleged in the complaint that the applicant No.2 Joky @ Rakesh came there and pushed the informant in ditch of sand. In consequence of which, the informant has sustained injuries. On the basis of these allegations, Crime as aforesaid, came to be registered and after due investigation, the Police submitted the charge sheet against the applicants and other accused persons.

4. Learned senior counsel for the applicants submits that so far as applicant No.2 is concerned, there are only allegations to the effect that he pushed the informant into ditch of sand and accordingly, the informant has sustained injuries. So far as applicant No.1 is concerned, no specific role is ascribed to him. Both the applicants are in jail since 7.2.2016. There is no question of tampering with the prosecution evidence if the applicants are released on bail. Furthermore, both the applicants have fixed place of residence and they will be easily available for trial.

5. Learned A.P.P. submits that there are serious allegations made against both the applicants. Applicant No.2 pushed the informant with such a force that he had fallen in a ditch of sand and accordingly sustained severe injuries.

6. On perusal of charge sheet, it appears that the allegations against applicant No.2 are restricted to the extent that he pushed the informant and accordingly informant had fallen in a ditch of sand. There are no allegations that the applicants were armed with weapons and they assaulted to cause injuries on the person of the informant with the help of those weapon. The investigation is over and charge sheet is filed. The application for getting released on bail cannot be rejected as a matter of punishment, that too on the ground that the applicants have assaulted Government Servant at the time of the incident. Considering the nature of allegations and the evidence on record and the fact that both the applicants are easily available for trial, I am inclined to allow this application. Hence, the following order:-

O R D E R

I. Criminal Application is hereby allowed.

- II. The applicants (1) Vijay Lakhan Tamchikar and (2) Joky @ Rakesh Sanjay Mali be released on bail on their furnishing personal bond of Rs.20,000/- (Rupees twenty thousand only) each, with one solvent surety each in the like amount.
- III. Bail before the trial court.
- IV. Application is accordingly disposed of.

(V. K. JADHAV, J.)

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