

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

CRIMINAL APPLICATION NO. 3125 OF 2016

Pankaj Chandrakant Sonawane
and others

...Applicants

VERSUS

The State of Maharashtra

...Respondent

.....
Shri V.B.Patil, advocate for applicants
Shri N.T.Bhagat, A.P.P. for respondent
.....

CORAM : SMT.SADHANA.S.JADHAV, J.

DATED : 11th JULY, 2016

PER COURT :-

Heard learned counsel for the applicants.

2. This is an application under Section 439 of the Criminal Procedure Code.

3. The applicants are arrested on 17.5.2016 in Crime No. 30 of 2016, registered at Shani Peth police station, Jalgaon, for the offences

punishable under Sections 307, 506 r/w 34 of the Indian Penal Code and Section 4/25 of the Indian Arms Act.

4. It is the case of prosecution that on 16.5.2016 Satish Gaikwad lodged report at Shani Peth police station, Jalgaon alleging therein that on 2.5.2016 his sister-in-law namely Laxmi has lodged a report against Pankaj Chandrakant Sonawane i.e. present applicant and Banti Chandrakant Sonawane and others at Shani Peth police station as there was altercation over the quarrel between the minor children. According to the complainant, the accused has nurtured grudge against the complainant for initiating criminal prosecution. It is alleged that on 5.5.2016 when the complainant was returning home the present applicant Pankaj was in the company of Govind Sonawane. At that time Govind was armed with a sword. As soon as Govind saw complainant, he brandished his sword and thereafter mounted assault upon the complainant. That he had tried

to rescue himself, however, he was followed by Govind. Thereafter the associates of Govind namely Bhimrao Tayade, Gorakh Tayade who were waiting near Kamal Jewellers armed with deadly weapons attempted to mount assault on the complainant, however, he has managed to escape.

5. Perused the papers of investigation. According to the complainant, he was assaulted on 5.5.2016. However, the injury certificate shows that he was examined on 16.5.2016 at 8.20 p.m. i.e. on the date of lodging of the first information report. He was brought by police with alleged history of assault five days ago. The injuries were simple in nature. As per the panchanama dated 24.5.2015, the CC TV camera which was mounted just opposite Ananya Jewellers shows that Govind Sonawane has followed the complainant and has assaulted him in Rath chowk. On 16.5.2016 the history given was of assault 5 days ago although the incident is of 2.5.2016. Even at this stage there is no plausible explanation for

the inordinate delay in lodging F.I.R. much less medical examination at a belated stage.

6. It is made clear that the co-accused shall not claim parity with the present applicants and their application would be decided on its own merits. Hence following order.

(i) The application is allowed.

(ii) The applicants be enlarged on bail on they each furnishing P.R.bond in the sum of Rs.20,000/- with one or two sureties in the like amount by each of them.

(iii) The applicants shall report the Shani Peth police station, Jalgaon on every Sunday between 10.00 a.m. and 12.00 noon, till filing of the charge sheet.

(iv) The observations made herein above are prima facie in nature and shall not be considered for the purpose of quashing of F.I.R., discharge application or at the time of trial, as they are restricted to an application under Section 439 of the Criminal Procedure Code.

(v) The application stands disposed of.

(SMT.SADHANA.S.JADHAV, J.)

dbm/crap3125.16