

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

CRIMINAL APPLICATION NO. 3142 OF 2016

VINAYAK S/O GANPAT MHASKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr N V Gaware
APP for Respondents: Mr C V Dharurkar

...

CORAM : V.K. JADHAV, J.

Dated: July 18, 2016

...

PER COURT :-

1. Heard learned counsel for the applicant and the learned APP for the Respondent State.

2. On the basis of the complaint lodged by one Anil Raghunath Mhaske dated 2.5.2016 crime bearing No.179/2016 for the offences punishable u/s 307, 143, 147, 148, 149, 324, 323, 504, 506 of Indian Penal Code and u/s 4/25 of Arms Act came to be registered at Police Station Shrigonda, Tq. Shrigonda, District Ahmednagar.

3. It has alleged in the complaint that on 1.5.2016 on account of some festival in the village one programme was going on and certain villagers caused obstruction in the said programme. The informant and Sarpanch of the village requested the villagers to keep quiet and do not obstruct the

said programme. After completion of the said programme, informant Anil Mhaske alongwith cousin Pandharinath started proceeding to their house on foot. On way, they were assaulted by certain persons including present applicants. It has alleged in the complaint that, Dattatraya Mhaske was carrying sword in his hand and applicant Satish was having iron rod. It has alleged in the complaint that, other accused and applicants were carrying sticks. Thereafter, said Pandharinath was subjected to beating and one Dattu Mhaske, who was carrying sword, gave blow of sword on forehead of the Pandharinath. He was also assaulted by other accused persons including applicants no.1 and 2 with the help of iron rod and sticks. Thereafter, in the same incident one Sunil Mhaske, Gajendra Mhaske and Amit were also assaulted by the accused persons and they also sustained injuries in the said incident. On the basis of these allegations aforesaid Crime came to be registered and the applicants therefore apprehends their arrest at the hands of police and preferred this application for grant of per-arrest bail. Their application for similar prayer came to be rejected by the Additional Sessions Judge, Ahmednagar by order dated 31.5.2016 in Criminal M.A.No.550/2016.

4. Learned counsel for the applicant submits that, the alleged incident is out come of the political rivalry and in respect of the same incident, the applicant Satish Mhaske has lodged complaint in the police station on 2.5.2016 and accordingly, on the basis of his complaint Crime No.178/2016 for the offences punishable u/s 143, 147, 324, 323, read with section 34 of Indian Penal Code came to be registered with the Shrigonda Police Station against the informant Anil, injured Pandharinath and also other accused persons.

5. Learned counsel for the applicant submits that, so far as crime No.178/2016 is concerned, same is registered at the earlier point of time on the basis of the complaint lodged by applicant Satish and in order to counter blast, subsequent complaint came to be lodged with some exaggerated allegations. Learned counsel submits that, as alleged in the complaint, in crime No.179/2016 one Dattu Mhaske gave a blow of sword on forehead of injured Pandharinath and accordingly he had sustained injuries. Said Dattu came to be arrested by the police during the course of investigation and presently he is released on bail. Even though there are allegations in the complaint that, injured Pandharinath was also subjected to beating by the accused as per medico-legal

certificate collected by the Investigating Officer, it reveals that, said Pandharinath had sustained only one injury on his forehead. Learned counsel submits that, all the applicants have fixed place of residence and they are not likely to be absconded. Custodial interrogation of the applicants is not required.

6. The learned APP submits that, there are specific allegations against the applicant Satish and even in the said course of incident one Sunil, Gajendra and Amit also sustained injuries. Learned APP submits that during the course of investigation, Investigating Officer has recorded statement of eye witnesses including injured witness Pandharinath. Learned APP submits that, specific role is assigned to each and every applicant and prima facie case is established against them. They are not entitled for pre-arrest bail. Learned APP further submits that, medical certificate of injured Pandharinath issued by the Apex Hospital is placed on record and as per said certificate, injured Pandharinath had sustained near about seven injuries out of which two injuries sustained by him were on his forehead.

7. It appears from the record that, on the basis of the complaint lodged by present applicant Satish Crime

No.178/2016 came to be registered in the same police station. It has alleged in the said complaint that, after said programme was over, the applicant Satish and his companions were assaulted by near about 11 persons including the informant Anil in crime No.179/2016 and even injured Pandharinath. They were subjected to beating with the help of knife, cycle chain, stones etc., It appears from the allegations made in the complaint on the basis of which crime No.179/2016 came to be registered that, there is political rivalry between these two groups on account of Grampanchayat Elections in the village. As per the allegations made in the complaint lodged by Anil in Crime No.179/2016, one Dattu Mhaske gave blow of sword on forehead of Pandharinath and as alleged in the complaint other persons beaten Pandharinath with the help of iron rod and sticks. On perusal of the investigation papers, it appears that, medico-legal certificate is collected by the Investigating Officer and it appears from the said medico-legal certificate that, injured Pandharinath sustained only one injury on his forehead. So far as medical certificate issued by the Apex Hospital, Ahmednagar is concerned, same came to be issued on 2.5.2016 wherein six injuries shown to have been sustained by the injured Pandharinath.

8. In the light of all these facts, on account of the political rivalry between two groups, possibility of false implication of the applicants with some exaggerated allegations cannot be ruled out. Furthermore, said Dattu Mhaske came to be arrested during the course of investigation and he is also released on bail. The applicants have fixed place of residence and they can be released on pre-arrest bail with certain conditions in order to avoid tampering of prosecution evidence if any. Hence, following order.

O R D E R

1. Criminal Application is hereby allowed.
2. Until further orders, in the event of arrest in connection with Crime No. I-179/2016 registered at Police Station Shrigonda, Tq. Shrigonda, District Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504, 506, of the Indian Penal Code and U/s 4/25 of Arms Act , the applicants namely :- 1) Vinayak s/o Ganpat Mhaske, 2)- Pravin s/o Bapu Mhaske and 3)- Satish s/o Gorakh Mhaske, be released on bail on their furnishing P.B. of Rs.5,000/- (Rs. Five Thousand) each with one surety of the like amount on the following conditions :-

- ij] The applicants shall not tamper the prosecution evidence, in any manner.

- ii] The applicant shall attend the concerned police station once in a Week on Every **Sunday** between **09.00 am to 11.00 a.m.** till filing of the charge sheet.
- iii] The applicants shall make themselves available as and when required by the Investigating officer.

9. Application is accordingly disposed of.

sd/-

(**V.K. JADHAV, J.**)

...

aaa/-