

CRIMINAL APPLICATION NO. 3333 OF 2016

Shri G.J.Kore, advocate h/f
Shri H.I.Pathan, advocate for applicant
Shri C.V.Dharurkar, A.P.P. for respondent/State

2. This is an application under Section 439 of the Criminal Procedure Code. The applicant herein is arrested on 21.5.2016 in Crime No. 111 of 2016, registered at Udgir (City) police station, District Latur, for the offences

punishable under Sections 307, 323, 506 r/w 34 of the Indian Penal Code.

3. It is the case of the prosecution that on 21.5.2016 Mirza Ayub Baig lodged a report at Udgir police station alleging therein that on 20.5.2016 at about 9.30 a.m. the complainant had been to attend the marriage of his relative Layik Shaikh. That the marriage was scheduled to be held in J.A. Function Hall. That at the time of the feast of the marriage the complainant was playing a game on cell phone along with his friends and the bridegroom. That suddenly the present applicant had appeared on the scene armed with an iron rod and had assaulted him on the ground that the nephew of the complainant had assaulted him in the past. It is alleged that the applicant has assaulted the complainant on his neck, thigh and other vital parts of the body. On the basis of his report, Crime No. 111 of 2016 was registered at the police station against the applicant and the applicant came to be arrested.

4. Perused the papers of investigation, more particularly the injury certificate of the complainant, which shows that the complainant was examined on 20.5.2016 at 10.30 p.m. and that he had sustained about three contusions and two abrasions. There were contusions on the right side of his neck, shoulder, right thigh middle aspect and the abrasion on the right and left leg. The Medical Officer of S.B.H. Udgir has described the said injuries as simple injuries with hard and blunt object. It is in these circumstances that the present applicant claims to be enlarged on bail.

5. Learned counsel appearing for original complainant submits that it is not necessary to consider the nature of injuries, but the intention of the applicant in inflicting injuries on the vital parts of the body. It prima facie appears that without there being a prelude to the incident the applicant had assaulted the complainant on the ground that he was assaulted by the nephew of the

applicant two years prior to the incident on the basis of which Crime No. 117 of 2014 was registered. That appears to be a stale incident.

6. Be that as it may, at present the applicant has been in custody for almost 52 days and therefore, his further incarceration would be unwarranted and unjust. Hence, this Court is of the opinion that the applicant deserves to be enlarged on bail.

7. It is made clear that the observations made are prima facie in nature and restricted to an application under Section 439 of the Criminal Procedure Code. The said observations shall not be considered for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence the following order.

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall report to the Udgir (City) police station on every Sunday between 10.00 a.m. and 12.00 noon till the filing of the charge sheet.

(iv) The co-accused shall not claim parity with the present applicant, more particularly since he is absconding.

(iv) Application stands disposed of.

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

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