

Criminal Application No. 3604 of 2016

District : Ahmednagar

versus

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With

Criminal Application No. 4010 of 2016

District : Ahmednagar

versus

The State of Maharashtra,
Through Police Inspector,
Loni Police Station,

Taluka : Rahata,
District : Ahmednagar.

.. Respondent.

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Mr. D.B. Thoke, Advocate, for the applicant.

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 19TH AUGUST 2016

ORAL ORDER:

Applicants / accused in Crime No. I-21/2016, for offences punishable under Sections 326, 323, 504, 506, 427, 143, 147, 148, 149 of the Indian Penal Code and under Sections 37(1)(3) / 135 of the Maharashtra Police Act, as well as under Sections 4 / 25 of the Arms Act, registered with Loni Police Station, District Ahmednagar, by these applications, are praying for releasing them on bail.

2. Heard the learned Counsel appearing for applicants / accused. They argued that the offence punishable under Section 326 of the IPC is not even made out from perusal of the charge-sheet and, as such, pre-trial detention of applicants is not warranted. The learned Counsel appearing for applicant Samadhan argued that he is not having any criminal antecedents. The offence is triable by the

Magistrate and, as such, applicants are entitled to be released on bail.

3. The learned Addl. Public Prosecutor opposed applications by contending that the crime, in question, is serious.

4. So far as offence punishable under Section 326 of the IPC is concerned, prima facie there is certificate issued by the Medical Officer which shows that the injured had suffered a grievous injury. Whether the offence punishable under Section 326 of the IPC is made out, or not, will be the question of trial. The impact of the crime on the society is a relevant consideration for granting bail. In the case in hand, if the FIR is perused, then severity of the offence and its impact on the society becomes writ large. It is seen from the FIR, that both applicants along with co-accused have formed an unlawful assembly and indulged in rioting at the market place of the city. They had pelted stones at several shops, causing damage to the shops. They have inflicted blows of sticks on witnesses who were members of the public at large, causing hurt to them. It is seen from perusal of the charge-sheet, that the public order is affected because of acts of accused persons. The material gathered by the investigator reflected in the charge-sheet do shows that applicants along with co-accused have formed unlawful

assembly with an object of rioting. As such, they become vicariously liable for the acts done by each and every member of the unlawful assembly. As such, at this stage, it cannot be heard to say that limited role is attributed to the applicants in the crime in question.

5. Considering the nature of crime and the circumstances in which it is committed, no case for grant of bail is made out. Considering the manner in which offence is committed, if applicants are released on bail, tampering the prosecution evidence at their instance cannot be ruled out.

6. Hence, both Applications are rejected.

7. Needless to mention, that the observations made in this order are prima facie in nature which shall have no bearing on trial of the case.

(A.M. BADAR)
JUDGE

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