

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

Criminal Application No. 3954 of 2016

District : Hingoli

1. Baburao s/o. Sitaram Jagtap,
Age : 62 years,
Occupation : Agriculture.
2. Chandoji @ Chandu Baburao Jagtap,
Age : 30 years,
Occupation : Agriculture.

Both R/o. Kanhergaon,
Taluka : Basmath,
District : Hingoli.

.. Applicants.

versus

The State of Maharashtra,
Through the Investigation Officer,
Police Station, Basmath (Rural),
Taluka : Basmath,
District : Hingoli.

.. Respondent.

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Mr. N.B. Khandare, Advocate, for applicants.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 31ST AUGUST 2016

ORAL ORDER:

At the request of the learned Counsel for

applicants, leave to correct name of applicant no.2 is granted. Necessary correction be done forthwith.

2. Applicants Baburao Jagtap and Chandoji @ Chandu Jagtap, who are accused in Crime No. 46/2016, for offences punishable under Sections 307, 324, 323, 504, 506, read with Section 34 of the Indian Penal Code, registered with Police Station, Basmath (Rural), Taluka Basmath, District Hingoli, by this application under Section 439 of the Code of Criminal Procedure, are seeking their release on bail.

3. Heard the learned Counsel appearing for applicants / accused. He argued that the FIR itself shows that present applicants are not responsible for fracture injury to Shivaji Jagtap. Applicants are relatives of the prosecuting party and the incident allegedly took place because of breaking of *Dhura*.

4. The learned Addl. Public Prosecutor opposed the application by contending that fracture injury was caused on head of Shivaji Jagtap and there is evidence of recovery of weapon as well as clothes from accused persons.

5. Perused papers of investigation including the FIR lodged by Dhrupadabai Jagtap. The incident took place on 14.06.2016. As per version of the informant, applicant no.1 Baburao Jagtap is her

brother-in-law. The informant reported that applicant no.1 Baburao Jagtap, his two sons and younger brother-in-law came in her house and questioned her as to why *Bandh* is broken. According to the informant, applicant no.1 Baburao Jagtap gave blow of *Koyta* on her thumb and index finger, whereas applicant no.2 Chandoji @ Chandu Jagtap caught hold of her son Shivaji and assaulted him by means of fist and kick blows. The informant further reported that co-accused Nagesh Jagtap assaulted Shivaji by means of stick.

6. Considering near relations between applicants and the informant as well as injured Shivaji Jagtap, prima facie it does not appear that applicants intended to cause grievous hurt or attempted to kill Shivaji. Role attributed to present applicants is causing of injury to fingers of the informant and assault to Shivaji by means of fist and kick blows.

7. Considering the fact that major portion of investigation is already over and considering the role attributed to present applicants in the crime in question, further pre-trial detention of applicants is not warranted.

8. Hence, I pass the following order :-

(a) The Application is allowed.

(b) Applicants / accused, in the above crime, be released on bail on their executing P.R. Bond in the sum of Rs. 15,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(d) Applicants shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet against them by the Investigating Officer.

(e) Applicants shall not repeat commission of similar type of offences in future.

9. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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