

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

Criminal Application No. 4233 of 2016

District : Dhule

1. Rahim Shabbir Bhangarwala
@ Shaikh,
Age : 33 years,
Occupation : Business.
2. Altaf Baig Amir Baig,
Age : 36 years,
Occupation : Labour.
3. Rafiq Hanif (Dellimorya)
@ Rafiq Shaikh Hanif,
Age : 22 years,
Occupation : Business.

All applicant Nos.1 to 3
are residing at
Idgah Nagar, Shirpur,
District : Dhule.

.. Applicants.

versus

The State of Maharashtra.

.. Respondent.

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Mrs. Sabahat T. Kazi, Advocate, for applicants.

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

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CORAM : A.M. BADAR, J.

DATE : 8TH SEPTEMBER 2016

ORAL ORDER:

Applicants / accused in Crime No. 129/2016 for offences punishable under Sections 395, 307, 341, 143, 147, 148, 149, 338, 427, 435, 504 and 506 of the Indian Penal Code, registered at Police Station, Shirpur, District Dhule, by this application, are praying for releasing them on bail.

2. Heard the learned Counsel appearing for applicants / accused. She argued that virtually investigation of the crime in question is over and informant Laxman s/o. Ananda Marathe is already discharged from the hospital long back. As such there is no possibility of conversion of this offence into graver offence. The learned Addl. Public Prosecutor opposes the application by contending that applicants along with co-accused have formed an unlawful assembly. They indulged in riot and robbed the informant of his cash and valuables.

3. This application was adjourned from time to time as medical certificate of the victim was not available with the case diary. Last chance was granted to the State to produce the injury certificate. However, the same is not produced. Police Inspector of Shirpur Police Station despite directions of this Court, failed to remain present personally though the order dated 20th August 2016

directs him to remain personally present today before this Court, with Police papers including injury certificates.

4. The offence punishable under Section 307 of the Indian Penal Code does not require causing of any injury but nature of weapon used and nature of injuries suffered by the victim prima facie reflects intention. In the case in hand, because of apathy of the Investigating Officer of Shirpur Police Station, injury certificate of the victim is not available on record. Police Inspector of Shirpur Police Station has no courtesy to attend this Court despite judicial directions contained in the order dated 20th August 2016.

5. Perusal of papers of investigation goes to show that applicants and co-accused formed an unlawful assembly and assaulted injured Laxman Marathe by means of wooden log, sticks and iron rod. It is not clear as to what injuries were suffered by Laxman Marathe. On instructions, the learned Counsel for applicants submits that the injured is already discharged from the hospital. In absence of the injury certificate, this prima facie indicates that Section 307 of the IPC may not be attracted to the case in hand. Injuries may not be serious. Record of investigation shows that necessary investigation qua present applicants is already over and they are in

magisterial custody remand.

6. In this view of the matter, I see no reason to refuse bail to present applicants. Hence, the 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, on the following conditions :-

(i) 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.

(ii) 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, if any, against them.

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

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

8. Copy of this order be sent to the District Superintendent of Police, Dhule, in order to enable him to see that the Investigating Officers protect interest of the State by paying attention to their duties as well as judicial orders.

9. Parties to act upon an authenticated copy of this order.

(A.M. BADAR)
JUDGE

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