

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

928 CRIMINAL APPLICATION NO. 4278 OF 2016

CHOTU @ TALEB BEG S/O RAFIK BEG

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Shaikh Mazhar Jahagirdar, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 16th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 85/2016 registered at City police station, Parali, Dist. Beed for the offences punishable u/ss 307,326,147,148,149,323,504, 506 of the Indian Penal Code, u/s 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocity) Act, 1989 [for short, 'S.C. & S.T. Act'] and u/s 25 of the Indian Arms Act, 1959, by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant. By drawing my attention to the F.I.R. lodged by Sanjay Madan Netake, the learned counsel argued that though the incident allegedly took place on 07/03/2016, the F.I.R. came to be lodged on 12/03/2016. The learned counsel argued that the F.I.R. itself shows that on 10/03/2016, the injured were discharged from the hospital. Therefore, in submission of the learned counsel, there is no possibility of turning out the offence into grievous one.

3. The learned A.P.P. opposed the application by contending that the injured suffered 2 injuries apart from other injuries on other parts of his body. There are eye witnesses to the incident in question and the offence alleged is serious.

4. The learned A.P.P. further stated that as of now the charge sheet has been filed in the concerned Court.

5. Perused the papers of investigation including the F.I.R. and the injury certificate of Nitin Netake. It is averred in the F.I.R. that the applicant had assaulted Nitin Netake by means of a sword, on his head. The offence punishable u/s 307 of the Indian Penal Code is levelled against the present applicant. For the offence punishable u/s 307 of the Indian Penal Code, causing injury is not necessary, but intention coupled with overt act is required to be seen. The intention can be gathered from the nature of injuries caused. In the case in hand, Nitin Netake had suffered only simple injuries

and the F.I.R. itself shows that injured are discharged from the hospital on 10/03/2016.

6. The learned A.P.P. submits that the Investigating Officer is submitting additional report regarding the offences lodged under the provisions of the S.C. & S.T. Act.

7. Considering the fact that the investigation is already over and the injured had suffered simple injuries, further pre-trial detention and that too after filing of the charge sheet is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) The applicant Chotu @ Taleb Beg s/o Rafik Beg in Crime No. 85/2016 registered at City police station, Parali, Dist. Beed for the offences punishable u/ss 307,326,147,148, 149,323,504,506 of the Indian Penal Code, u/s 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocity) Act, 1989 and u/s 25 of the Indian Arms Act, 1959 be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4278.2016