

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4327 OF 2016

- 1] Amol S/o. Anand Gunjkar,
Age : 25 Years, Occu. : Agriculture,
- 2] Shankar S/o Baliram Gunjkar,
Age : 50 years, Occu. : Agriculture,
- 3] Ganesh S/o Shankar Gunjkar,
Age : 22 Years, Occu : Agriculture,
- 4] Anand S/o Baliram Gunjkar,
Age : 45 Years, Occu. : Agriculture,
All R/o Chambhra, Tq. Hadgaon,
Dist. Nanded.

... APPLICANTS

VERSUS

The State of Maharashtra,
Through Ardhapur Police Station,
Tq. Ardhapur, Dist. Nanded.

...RESPONDENT

. . .
Mr. Mahesh V. Ghatge, Advocate for Applicants.
Mr. A. S. Shinde, APP for Respondent/State.
. . .

CORAM : A. M. BADAR, J.

DATE : 29th AUGUST, 2016.

PER COURT :

1] Applicants /accused in Crime No. 135/2016, registered at Ardhapur Police Station, Tq. Ardhapur, Dist. Nanded, for offences punishable under Sections 307, 324, 323, 506 and 120-B of I.P.C., at the instance Shivhar Vishwas, by this application are praying for pre-arrest bail.

2] Heard learned counsel for applicants / accused. He argued that, accidental injuries are being capitalized for prosecuting applicants. He further argued that, though the informant was accompanied by his relatives, averments in the F.I..R does not show that his relatives were touched by accused persons. This fact probablized that there was vehicular accident. It is further averred that as accused persons were not having knowledge about visit of the informant and his relatives to the field of Jijabai, offence of conspiracy can not be made even prima facie.

3] The learned APP opposed the application by contending that in the assault, fracture in the cause to the informant and statement of eye witnesses shows that, it was designed assault.

4] Perused the F.I.R. as well as statement of witnesses including those of Shivprasad Vishwas, Veerbhadra Bargal, Jijabai Bhuse and others. Eye witnesses to the incident in question are specifically stating that when the informant and his relatives were talking with Jijabai and her relatives, accused persons were watching them from distance and they were talking with each other at that time. Witnesses are stating that, subsequently co-accused / applicant Amol Gunjkar rode on his motorcycle, driven it in rash and negligent manner and gave dash to informant Shivhar causing injury

to him. Eye witnesses are further stating that, at the same time rest of accused persons i.e. present applicants No.2 to 3 rushed on the spot with sticks and assaulted Shivhar.

5] With this consistent version of the informant and other witnesses to the incident, it can not be said at this stage that there was no conspiracy and injuries to the informant were accidental injuries. Though in the F.I.R. no categorically role is ascribed to applicant Ganesh, rest of the witnesses are disclosing his role in the crime in question. The Application is accordingly rejected.

[A. M. BADAR]
JUDGE