

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

Criminal Application No. 4366 of 2016

District : Aurangabad

Manoj s/o. Supadsingh Maher,
Age : 27 years,
Occupation : Agriculture,
R/o. Siddhanath Wadgaon,
Taluka : Gangapur,
District : Aurangabad. .. Applicant.

versus

The State of Maharashtra. .. Respondent.

With

Criminal Application No. 4567 of 2016

District : Aurangabad

Supadsingh s/o. Devchand Maher,
Age : 58 years,
Occupation : Agriculture,
R/o. Sidhanath Wadgaon,
Taluka : Gangapur,
District : Aurangabad. .. Applicant.

versus

The State of Maharashtra,
through Police Station, Sillegaon,
Taluka : Gangapur,
District : Aurangabad. .. Respondent.

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Mr. P.N. Sonpethkar, Advocate, for applicants.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 14TH SEPTEMBER 2016

ORAL ORDER:

Applicant Manoj s/o. Supadsingh Maher in Criminal Application No. 4366 of 2016 is seeking regular bail, whereas applicant Supadsingh s/o. Devchand Maher in Criminal Application No. 4567 of 2016 is seeking anticipatory bail in Crime No. 187/2016 for offences punishable under Sections 307, 324, 323, 143, 147, 148, 149, 447, 504 and 506 of the Indian Penal Code, registered with Police Station, Sillegaon, Taluka Gangapur, District Aurangabad, at the instance of Jamuna Santosh Maher.

2. Heard the learned Counsel appearing for applicants / accused. He argued that prima facie considering averments in the FIR, it does not appear that accused persons have formed an unlawful assembly with an intention to commit murder of Suresh - brother of the informant or other members of the prosecuting party. The learned Counsel further argued that applicant Manoj Maher is behind bars since last about two months. He further argued that all injured are already discharged from the hospital.

3. The learned Addl. Public Prosecutor argued that applicant Major Maher had given a blow of axe on head of Suresh thereby causing injuries to him. Other members of accused persons have also assaulted members of the prosecuting party.

4. Perused papers of investigation including FIR lodged by Jamuna Maher. Applicants are relatives of her deceased husband Santosh Maher. It is seen from papers of investigation that Santosh Maher (since deceased) had purchased some land at Vajnapur. After his death, his widow i.e. informant Jamnuna Maher along with her brothers had been to Vajnapur where the incident in question had happened. Informant Jamnuna Maher reported that she protested and tried to restrain applicants and co-accused from cultivating her field. Thereupon all accused persons including present applicants had assaulted her brother Suresh Kathumbre and Ganesh Kathumbre.

5. Perusal of injury certificates shows that Jamnuna Maher had suffered contused wound whereas Ganesh has suffered cut injury to his head and contusion to his upper arm. Another injured Suresh had suffered three simple injuries. Nature of injuries and seat of injuries prima facie reflects intention. Considering the nature of injuries

suffered by the prosecuting party, it is difficult to conclude that accused persons have assaulted them with an intention to commit their murder. So far as present applicant Supadsingh Maher is concerned, it is averred in the FIR that he assaulted Ganesh by means of a stick. Ganesh had suffered simple injury. The incident happened when accused persons were cultivating the agricultural land allegedly owned by deceased husband of the informant. Therefore, it is difficult to put on record that accused persons were having common object.

6. In this view of the matter, custodial interrogation of applicant Supadsingh s/o. Devchand Maher is not warranted. So also, further pre-trial detention of applicant Manoj s/o. Supadsingh Maher is not desirable.

7. Hence, I pass the following order :-

(a) Both Applications are allowed.

(b) Applicant / accused Supadsingh s/o. Devchand Maher, in the above crime, in the event of his arrest, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount, on the following condition :-

(I) Applicant Supadsingh Maher shall attend concerned Police Station on 18th September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer for the purpose of investigation. He shall cooperate the Investigating Officer in investigation of the crime in question.

(c) Applicant / accused Manoj Maher, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(d) As conditions of this order, both applicants shall abide by the following directions :-

(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

(6)

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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.

8. Both Applications are disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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