

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

Criminal Application No. 4692 of 2016

District : Jalgaon

Gautam s/o. Ishwar Jadhav,
Age : 31 years,
Occupation : Advocate,
R/o. Mahabodhi,
New Malegaon Road,
Chalisgaon,
Taluka : Chalisgaon,
District : Jalgaon.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station Officer,
Chalisgaon City Police Station,
Chalisgaon, Taluka : Chalisgaon,
District : Jalgaon.

.. Respondent.

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Mr. S.D. Kotkar, Advocate, for the applicant.

*Mrs. P.V. Diggikar, Addl. Public Prosecutor, for
the respondent.*

*Mr. Govind A. Kulkarni, Advocate, for the
original complainant.*

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CORAM : A.M. BADAR, J.

DATE : 29TH AUGUST 2016

ORAL ORDER:

The applicant / accused in Crime No.

113/2016, for offences punishable under Sections 307, 143, 147, 148, 323, 504, 506 of the Indian Penal Code; under Section 3/25 of the Arms Act and under Sections 37(1) & 135 of the Maharashtra Police Act, registered with City Police Station, Chalisgaon, District Jalgaon, by this application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. He argued that perusal of the FIR itself goes to show that the applicant is being falsely implicated in the crime in question because the parties are on inimical terms. The learned Counsel further argued that the informant is maternal uncle of the present applicant. The informant on 25.05.2015 had lodged similar report against the present applicant with an averment that on 25.05.2015, his house was set on fire by the present applicant and others. Ultimately, as per submission of the learned Counse, 'A' summary was filed after investigation by Police in that case. Therefore, according to the learned Counsel, the applicant is being falsely implicated because of longstanding rivalry between the parties over the management of the educational institution.

3. The learned Addl. Public Prosecutor appearing for the respondent - State opposed the application by contending that the FIR itself goes to

show that pistol and swords were used for commission of crime. Those weapons are yet to be recovered. She further argued that the crime in question is serious and complicity of the applicant in the crime in question is well established.

4. I also heard the learned Counsel for the informant. He argued that the Police machinery is not properly investigating the crime in question. He drew my attention to the medical certificate of the informant and argued that he has suffered severe injuries in this accident. The learned Counsel further argued that apart from the informant, pillion rider was also injured in the accident in question and that he was sent for medical treatment by Police from the spot itself. However, as father of the applicant was Member of the Legislative Assembly, partisan attitude is adopted by the Police and, therefore, injury certificate of the pillion rider is not finding its place in papers of investigation.

5. The learned Addl. Public Prosecutor as well as the learned Counsel for the informant argued that the applicant is having criminal antecedents.

6. Perusal of annexures to the application and particularly report dated 25.05.2015 lodged by present informant Sudhakar Chudaman More, so also the FIR in question lodged on 22.07.2016 which prima

facie goes to show that the informant as well as the applicant are on inimical terms. It appears that the dispute between them is in respect of management of Gautam Backward Class Education Society, Chalisgaon. It hardly needs to emphasize that enmity is double edged weapon in which even false implication of the accused is not ruled out.

7. The FIR lodged on 22.07.2016 is to the effect that when informant Sudhakar More was proceeding by his motorcycle along with one Prashant Supare as a pillion rider, present applicant who was driving four wheeler vehicle bearing registration No. MH-19/AR-3776, came from behind and gave forceful dash of his red colour four wheeler vehicle to the motorcycle on which informant Sudhakar More was proceeding. The informant further averred that because of forceful dash of the four wheeler vehicle, he as well as his motorcycle had a fall in the ditch beside the road. He further averred that his friend Prashant Supare had also suffered a fall. Thereafter, according to the informant, applicant Gautam Jadhav and his associates alighted from the vehicle and attempted to kill him by pointing out a pistol and sword at him. Pistol is attributed to applicant Gautam Jadhav. During investigation, spot Panchanama was recorded by the investigator, which shows a motorcycle lying in ditch beside the road in damaged condition. Prashant Supare - pillion rider

has disclosed Police that when he was proceeding with informant Sudhakar More on motorcycle, a Bolero jeep gave dash to the motorcycle from behind because of which he as well as Sudhakar More suffered a fall in the ditch. Thereafter, as per statement of Prashant Supare, 6 - 7 persons alighted from that red colour Bolero jeep and threatened them.

8. During the course of investigation, the investigator has recorded statements of persons working in the neighbouring field. Statements of those persons shows that they had witnessed the incident after hearing a loud sound. Those witnesses have stated that because of dash of red colour jeep, persons riding on motorcycle suffered a fall.

9. As the spot Panchanama reflects damage condition of the motorcycle and as the independent witnesses are telling about dash of a red colour jeep to the motorcycle of the informant, prima facie it cannot be said that the informant is falsely implicating the applicant by narrating wholly untrue incident. Medical certificate collected by the investigator so also tendered by the informant goes to show that the informant had suffered injuries in this incident.

10. So far as offence punishable under Section 307 of the Indian Penal Code is concerned, even

causing injury is not essential. Intention coupled with overt act makes out the said offence. In the case in hand, the incident of giving dash to the motorcycle of the informant is disclosed. The informant as well as his associate are disclosing subsequent threatening. The Police report also shows criminal antecedents of the present applicant. As such, no case for grant of pre-arrest bail is made out.

11. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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