

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

925 CRIMINAL APPLICATION NO. 4918 OF 2016

SHANTARAM S/O DAGADU BELDAR

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. Govind Kulkarni h/f Mr. R.S.Deshmukh,
Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

.....

CORAM : A.M.BADAR, J.

DATE : 16th SEPTEMBER, 2016

.....

PER COURT :

1. The applicant/accused in Crime No. 17/2016 registered at Pimpalgaon Hare police station, Tq. Pachora, Dist. Jalgaon for the offences punishable u/ss 307,504,506 read with 34 of the Indian Penal Code, at the instance of Sanjay Daulat Choudhari by this application is seeking his release on bail.

2. Heard the learned counsel for the applicant. He argued that the entire investigation of the crime in question is over and formality of filing charge sheet remained. The

learned counsel further argued that *prima facie* no offence punishable u/s 307 of the Indian Penal Code is made out as the weapon allegedly used is spade and seat of injury is lower limbs.

3. The learned A.P.P. opposed the application by contending that there are eye witnesses to the incident in question. He further drew my attention to the representations of the villagers stating that the applicant and his relatives are menace to the village.

4. Perused the papers of investigation including the statement of injured Anil Choudhari. According to the prosecution, on 15/03/2016 when injured Ail Choudhari was passing from in front of hotel of the present applicant, there was quarrel between the present applicant, his father Dagadu and injured Anil Choudhari over the issue of throwing of Murum on the person of Anil Choudhari while removing it by spade by the accused persons. According to the prosecution case, the present applicant and his father then assaulted injured Anil Choudhari. The applicant is stated to have assaulted Anil Choudhari by means of spade. Injury certificate shows that Anil Choudhari has suffered fracture of Shaft Femur of right leg.

5. Though causing of actual injury is not necessary for making out the offence punishable u/s 307 of the Indian Penal Code, the weapon used and the seat of injury *prima facie* shows the intention of the assailants. In the case in hand,

the spade with which the applicant was removing the Murum is stated to be used in the offence. Place of injury is lower limb of the injured. The offence is alleged to have been committed on 15/03/2016. The papers of investigation shows that the Investigating Officer has collected injury certificate, so also recorded statement of necessary witnesses. Considering the nature of injury and passage of time, there is no possibility of turning the offence into grievous one. In this view of the matter, further pre-trial detention of the present applicant is not warranted. Hence, the following order.

- (i) The application is allowed.
- (ii) The applicant Shantaram s/o Dagadu Beldar in Crime No. 17/2016 registered at Pimpalgaon Hare police station, Tq. Pachora, Dist. Jalgaon for the offences punishable u/ss 307,504,506 read with 34 of the Indian Penal Code 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.

(v) The applicant shall co-operate the trial Court in expeditious disposal of the trial against the present applicant.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4918.2016