

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

Criminal Application No. 5390 of 2016

District : Nandurbar

1. Pandit s/o. Kautik Mali,
Age : 35 years,
Occupation : Business,
R/o. Maliwada, Nandurbar,
Taluka & District : Nandurbar.
2. Prasad s/o. Sukhdeo Mali,
Age : 23 years,
Occupation : Business,
R/o. Maliwada,
Nandurbar,
Taluka & District : Nandurbar.
3. Nilkanth s/o. Bhagwan Mali,
Age : 30 years,
Occupation : Business,
R/o. Maliwada, Nandurbar,
Taluka & District : Nandurbar. .. Applicants.

versus

1. The State of Maharashtra.
2. The Deputy Superintendent
of Police,
Nandurbar,
District : Nandurbar. .. Respondents.

With

Criminal Application No. 5610 of 2016

District : Nandurbar

Vicky @ Vishal Sukdeo Mali,
Age : 22 years,

Occupation : Labour,
 R/o. Mali Wada, Nandurbar,
 Taluka & District : Nandurbar. .. Applicant.

versus

The State of Maharashtra. .. Respondent.

With

Criminal Application No. 5616 of 2016

District : Nandurbar

1. Pavba s/o. Nahnu Mali,
 Age : 31 years,
 Occupation : Labour,
 R/o. Mali Wada, Nandurbar,
 Taluka & District : Nandurbar.
2. Kamlesh s/o. Rajendra Mali,
 Age : 27 years,
 Occupation : Labour,
 R/o. Mali Wada, Nandurbar,
 Taluka & District : Nandurbar.
3. Nilesh s/o. Rajendra Mali,
 Age : 20 years,
 Occupation : Labour,
 R/o. Mali Wada, Nandurbar,
 Taluka & District : Nandurbar. .. Applicants.

versus

The State of Maharashtra. .. Respondent.

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Mr. N.L. Choudhari, Advocate, for applicants.

Mr. S.B. Yawalkar, Addl. Public Prosecutor, for respondents.

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CORAM : A.M. BADAR, J.**DATE : 6TH OCTOBER 2016****ORAL ORDER:**

Applicants in Criminal Application No. 5390 of 2016 are seeking pre-arrest bail, whereas applicants in Criminal Application No. 5610 of 2016 and Criminal Application No. 5616 of 2016 are seeking regular bail in Crime No. 128/2016 registered with Nandurbar City Police Station, District Nandurbar, for offences punishable under Sections 307, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under Sections 37 and 135 of the Maharashtra Police Act, 1951.

2. Heard the learned Counsel appearing for applicants / accused. By drawing my attention to the FIR, he argued that the incident in question is a fallout of some quarrel in Ganesh festival. The learned Counsel argued that the FIR itself shows that role of assault by knife is attributed to applicant / accused Vicky @ Vishal s/o. Sukdeo Mali and he is claiming regular bail in this crime. Allegations against other accused persons are regarding fist and kick blows.

3. The learned Addl. Public Prosecutor opposed applications by contending that the stab injury

inflicted by one of the members of the unlawful assembly is grievous in nature as reported by the Doctor. My attention is drawn to statements of witnesses including that of injured informant Anand Pavba Mali.

4. Perused papers of investigation. Prima facie, the incident took place at the time of procession for installing idol of Lord Ganesh. In the procession, there was some scuffle and then the incident of assault took place immediately thereafter. It is reported that all accused persons quarreled the informant as well as his cousin Mahendra Mali. In that process, Vicky @ Vishal Mali assaulted Mahendra Mali by means of knife. Perusal of injury certificate of Mahendra Mali shows that he suffered contused lacerated wound on paraumbilical region which was of size 3 x 1 cm. It is seen from the medical report that injured Mahendra Mali is already discharged on 19.09.2015. The learned Counsel for applicants, on instructions, makes a statement that Mahendra Mali is now well and is not suffering from any ailment.

5. Prima facie it does not appear that the incident was fallout of an unlawful assembly with common object. The act of Vicky @ Vishal Mali appears to be an independent act. Though the knife

is alleged to have been used in the crime, injury resulted is contused lacerated wound.

6. In this view of the matter, liberty of applicants / accused in Criminal Application No. 5390 of 2016, namely Pandit Mali, Prasad Mali and Nilkanth Mali needs to be protected in the wake of allegations against them. Similarly, as necessary investigation appears to be over, there is no propriety in further pre-trial detention of applicants in Criminal Application No. 5610 of 2016 and Criminal Application No. 5616 of 2016.

7. Hence, I pass the following order :-

(a) Criminal Application No. 5390 of 2016 is allowed and applicants therein / accused namely, Pandit s/o. Kautik Mali, Prasad s/o. Sukhdeo Mali and Nilkanth s/o. Bhagwan Mali, in the event of their arrest in the above crime, be released on bail on their executing P.R. Bond in the sum of Rs. 15,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(a-1) As a condition of this order, applicants / accused in Criminal Application No. 5390 of 2016 shall attend the concerned Police Station on 18th October 2016 in between 11.00 a.m. and 01.00 p.m. and

they shall cooperate the investigator in investigation of the crime in question.

(b) Criminal Application No. 5610 of 2016 and Criminal Application No. 5616 of 2016 are also allowed and applicants therein / accused namely, Vicky @ Vishal s/o. Sukdeo Mali, Pavba s/o. Nahnu Mali, Kamlesh s/o. Rajendra Mali and Nilesh s/o. Rajendra Mali, be released on bail in connection with the above crime, on their executing P.R. Bond in the sum of Rs. 15,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) As conditions of this order, applicants / accused in all these Applications shall abide by the following directives :-

(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 shall cooperate the learned trial Judge in expeditious disposal of the trial, in the

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& 5616 of 2016

event of filing charge-sheet, if any,
against them.

(iii) Applicants shall not repeat
commission of similar type of offences in
future.

8. Applications stand disposed of in the
aforesaid terms.

(A.M. BADAR)
JUDGE

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