

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

**CRIMINAL APPLICATION NO. 5669 OF 2016
CRIMINAL APPLICATION NO. 5668 OF 2016
CRIMINAL APPLICATION NO. 5791 OF 2016
CRIMINAL APPLICATION NO. 5683 OF 2016**

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CRIMINAL APPLICATION NO. 5669 OF 2016

Akash (real name – Prakash) Tukaram Kawade.. Applicants
and Anr.

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO. 5668 OF 2016

Sandip s/o. Balasaheb Deshmukh & Ors. .. Applicants

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO. 5791 OF 2016

Rahul s/o. Rajendra Chandramore .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO. 5683 OF 2016

Prashant s/o. Bhikaji Kasar .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Shivaji T. Shelke, Advocate for applicants in Cri. Appln. No. 5669 & 5668 of 2016.

Mr.S.S. Dixit, Advocate for applicant in Cri.Appln No.5791 of 2016

Mr.Ajay T. Kanawade, Advocate for applicant in Cri. Appln No.5683 of 2016.

Mr.S.B. Yawalkar, A.P.P. for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 19.10.2016

P.C. :-

1. Applicants - Akash (real name - Prakash) Tukaram Kawade, Ganesh (real name - Avinash) Bhaskar Dhumal in Criminal Application No.5669 of 2016 are seeking anticipatory bail. Applicants - Sandip Balasaheb Deshmukh, Ganesh Sitaram Khatode and Kishor Balasaheb Deshmukh in Criminal Application No.5668 of 2016 are seeking regular bail. Applicant - Rahul Rajendra Chandramore in Criminal Application No. 5791 of 2016 is seeking anticipatory bail. Applicant - Prashant Bhikaji Kasar in Criminal Application No. 5683 of 2016 is seeking regular bail. They all are accused in Crime No. I-138 of 2016, registered with Sangamner Taluka Police Station, Dist. Ahmednagar, for offences punishable under sections 307, 379, 353, 143, 144, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, registered at the instance of Police Naik - Anil Jadhav.

2. Heard learned Counsels appearing for all

applicants. It is argued that Akash Kawade and Ganesh Dhumal were merely by-standers. No overtact is attributed to them. They had been to the spot of incident for supplying milk but on seeing the tractor stopped on the spot, they just went to witness the happenings. They are resident of totally different village and not concerned with either tractor owner/driver or other accused persons. It is argued that even F.I.R. shows that averments are only to the effect that all upon seeing these applicants, other persons assaulted the informant. It is argued that applicant - Rahul Chandramore is entitled for anticipatory bail because he was not at all present on the spot of incident as vouched by the witness whose affidavit is annexed to the application. This applicant had withdrawn some amount from ATM located at other place at the time of incident. It is further argued that as the tractor in question is seized, applicant Prashant, who was driver of the tractor, is entitled to be released on regular bail. Similar arguments are advanced for seeking regular bail in respect of applicant Sandip Deshmukh, Ganesh Khatode and Kishor Deshmukh.

3. Learned A.P.P. by pointing out my attention to the F.I.R., as well as injury certificate of the informant, argued that the crime in question is serious.

He drew my attention to statements of two witnesses, who had initially accompanied informant, but as they were ahead, they could not witness the entire episode.

4. I have carefully considered the rival submissions and perused the papers of investigation. From papers of investigation, it is apparent that on the day of incident i.e. on 02.09.2016, Police Naik - Anil Jadhav (informant), police constable Kailas Shirsath and police constable Balu Adagale were on duty of raiding illegal businesses within the jurisdiction of Sangamner Taluka Police Station. While they were in the field, they saw a tractor without registration number attached with the trolley. Therefore, that tractor was stopped by them. It was found to be containing 1/2 brass of minor mineral sand. Applicant - Prashant was driving that tractor. He failed to show valid transit pass permitting transportation of minor mineral. He disclosed that the tractor is owned by applicant - Rahul. As such the raiding team thought it fit to take that tractor to Police Station. Informant - Anil Jadhav occupied the seat beside the driver - Prashant Kasar. Constable Shirsath and Khedkar were ahead of the tractor when it was being taken to the Police Station by the informant - Anil Jadhav. On the way, accused - Rahul Chandramore, Pravin Kasar, Sandip Deshmukh, Ganesh Khatode etc.

started following that tractor and obstructed it for preventing to be taken to the Police Station at Dhandarphal bifurcation. All these accused persons obstructed the tractor by parking their motor-cycles in front of that tractor. Informant – Anil Jadhav alighted from the tractor and started asking accused persons to remove the obstruction. At that point of time accused Ganesh Wakchoure, Kishor Deshmukh, Akash Kawade and Ganesh Dhumal came. The informant reported that upon seeing all these persons, accused Pravin Kasar, Rahul Chandramore, Sandip Deshmukh, Ganesh Khatode assaulted him and caused his fall in front of the tractor. It is reported that then they directed the driver of the tractor to run over that tractor on informant – Anil Jadhav. That direction was implemented by Prashant Kasar and while attempting to save his life, informant – Anil Jadhav sustained injuries. Thereafter, he telephonically contacted his colleague Police Constable Baba Khedkar and called his colleagues on the spot.

5. Statements of police constable – Baba Khedkar and police constable – Kailas Shirsath, who were accompanying informant – Anil Jadhav are fully corroborating the version. Both these witnesses have seen accused persons assaulting the informant – Anil Jadhav. Their statements reveal that when they reached

on the spot, upon seeing them accused persons fled from the spot. Both these police constables and reciting the former statement of informant – Anil Jadhav made to them soon after the incident, is otherwise relevant under section 157 of the Indian Evidence Act.

6. Perusal of injury certificate shows that the informant - Anil Jadhav suffered contusions on his thigh, apart from blunt traumas over his both hands and arms.

7. In the light of this evidence collected by the investigator, there is overwhelming evidence to show that accused persons attempted to kill a police constable on duty. There is rampant increase of such incidents of assault on police personnel on duty. This offence is anti-social and demoralizing disciplined police force from discharging their public duty. In this view of the matter, no case for anticipatory bail or bail is made out. All applications are, therefore, rejected.

8. Needless to state that these observations are prima facie in nature having no bearing on the trial of the Sessions Case.

[A.M. BADAR, J.]