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

CRIMINAL APPLICATION NO.5926 OF 2016

1. Ganesh Shivdas Amrutsagar,
Age: 21, Occ: Service,
2. Rahul Shivdas Amrutsagar,
Age: 25 years, Occ: Service,

Both R/o. Anandkhede,
Tal & Distt. Dhule

..APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Police Station
Officer, Dhule Taluka
Police Station,
Tq. & Dist. Dhule.
2. The Superintendent of Police,
Dhule, Dist. Dhule.

..RESPONDENTS

Mr Pawan B. Pawar, Advocate for applicants;
Mr V.M. Kagne, Add. Public Prosecutor for
respondents

CORAM : A.S. CHANDURKAR, J.

DATE : 17th NOVEMBER, 2016

ORAL ORDER :

Heard.

2. By the present application moved under

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Section 438 of the Code of Criminal Procedure, the applicants seek grant of bail, as they apprehend their arrest in Crime No. 299 of 2016 registered with Dhule Taluka Police Station, Dhule, for offences punishable under Sections 307, 143, 147, 148, 149, 324, 504 and 506 of the Indian Penal Code, as well as for offence punishable under Section 4/25 of the Arms Act.

3. According to the complainant in F.I.R. No. 299 of 2016, on 6th October, 2016, the work of constructing approach gate near the society temple in Dalit Vasti was going on. At that time, one Satish Pandharinath Amrutsagar and Mukunda Amrutagar told the workers to start the work of construction. There was some altercation on spending of the amount for the said purpose, which resulted in a scuffle and attack between two groups there. In the F.I.R., it is stated that Satish @ Santosh Amrutsagar assaulted the complainant with knife, while one Rahul was armed with sword. Present applicants and some others had sticks in

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their hand and were abusing the complainant and his group. The complainant and two others sustained injuries due to assault by knife and sword. Accordingly, the aforesaid report was lodged.

4. It is submitted by learned Counsel for the applicants that from the same incident, prior report bearing F.I.R. No. 297 of 2016 was lodged at 4-57 p.m. by Santosh Pandharinath Amrutsagar, in which other group members including the complainant in F.I.R. No. 299 of 2016 were named. He submitted that according to the said F.I.R., present applicants were armed with sticks and had abused other group. No grievous injury was caused at the instance of present applicants. He further submitted that at the time of incident, applicant No.1 was on duty at private hospital, while applicant No. 2 who was a member of Armed Forces was on leave. He, therefore, submitted that present applicants had been implicated only to harass them.

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5. The application is opposed by the learned Additional Public Prosecutor by relying upon the police papers. He submitted that the complainant and two others had sustained injuries in the attack. The present applicants were stated to be armed with sticks. He, therefore, submitted that considering prima facie involvement of the present applicants, no case for grant of anticipatory bail is made out.

6. Perused the police papers. As per report dated 6th October, 2016, assault has been specifically described. It is stated that Satish @ Santosh Amrutsagar was armed with a knife, while Rahul Rohidas Amrutsagar was armed with a sword. Knife in question has been seized from Satish @ Santosh as per memorandum under Section 27 of the Indian Evidence Act. Similarly, sword has been seized from Rahul Rohidas Amrutsagar. The injury certificates indicate abrasion over the face of Satish Shamrao Amrutsagar-complainant and contusion lacerated wound over chin of Tirathdas Shamrao

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Amrutsagar. The supplementary statement of the complainant dated 9th October, 2016 also indicates the attack by knife and sword by Satish @ Santosh and Rahul Rohidas Amrutsagar.

7. Considering the fact that the assault resulting in injuries was at the instance of accused armed with knife and sword who are not the present applicants and as present applicants have not been attributed any specific overt act except giving abuses and being armed with sticks, they would be entitled to grant of relief.

8. Accordingly, the following order is passed:-

(i) In the event of arrest of either of the applicants, in connection with Crime No. 299 of 2016 registered with Dhule Taluka Police Station, Dhule, for offences punishable under Sections 307, 143, 147, 148, 149, 324, 504 and 506 of the Indian Penal Code, as well as for offence punishable under

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Section 4/25 of the Arms Act, they shall be released on bail, on furnishing P.R. bond of Rs.15,000/- each, with one surety in the like amount.

(ii) They shall attend the concerned police station on 22nd November, 2016 and thereafter, as per directions of the Investigating Officer.

(iii) No steps shall be taken by them to tamper with the material collected by the prosecution.

(iv) Breach of any of the aforesaid conditions would result in liberty granted to them being liable to be cancelled.

9. Criminal Application is allowed on above terms and disposed of.

(A.S. CHANDURKAR, J.)

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