

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6229 OF 2016

- 1] Kaushak S/o Rajabhau Bagwale,
Age : 20 years, Occu.: Labour,
R/o Nandurves Galli, Parli-Vaijnath,
Tq. Parli-Vaijnath, Dist.-Beed
- 2] Keshav S/o Mahadeo Solanke,
Age : 24 yeras, Occu.: Labour,
R/o Manik Nagar, Parli-Vaijnath,
Tq. Parli-Vaijnath, Dist.-Beed
- 3] Chetan S/o Kisan Bagwale,
Age : 22 years, Occu.: Labour,
R/o Nandurves Galli, Parli-Vaijnath,
Tq. Parli-Vaijnath, Dist.-Beed

(At present the applicants are
in Judicial Custody in District
Prison, Beed)

.. Applicants

Vs.

The State of Maharashtra,
Through Police Station Parli (City)
Tq. Parli-Vaijnath, Dist. - Beed

.. Respondent

Mr. S.J. Salunke, Advocate for the applicant
Mr. S.P. Deshmukh, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 22/12/2016

ORAL ORDER :

Heard.

2. The applicants, who have been arrested in

connection with Crime no.39 of 2016 registered with Parali City Police Station, District - Beed for the offences punishable under Sections 307, 326, 143, 147, 148, 149 of the Indian Penal Code and under Sections 4, 25 of the Arms Act, seek their release on bail.

3. As per the FIR lodged by one Ravi Munde dated 13/2/2016, it has been stated that at about 8:30 am on the said day when he had gone near the gymnasium, the present applicants alongwith five other persons had come near him and had assaulted him with various weapons on account of some previous incident. The informant was grievously injured in the said assault and on that basis, report came to be lodged.

4. It is submitted by learned counsel for the applicants that after completion of investigation, the chargesheet came to be filed and the trial had commenced. Referring to the deposition of the informant as well as one eye witness, it is submitted that they have not supported the case of the prosecution. The panch witnesses have also not supported the prosecution. In this background, it is submitted that when the informant and the eye witnesses

themselves had not supported the case of the prosecution, the fate of the trial is a foregone conclusion. It is submitted that the informant himself had antecedents and therefore false implication of present applicants cannot be ruled out. It is therefore prayed that the applicants be released on bail.

5. The application is opposed by learned Additional Public Prosecutor by relying upon the statements recorded. It is submitted that the initial statements of the informant and the witnesses indicate involvement of the applicants in the offence. The injuries suffered by the informant are grievous in nature. Considering these facts, the applicants do not deserve to be so released on bail. It is submitted that in case, the Application is to be allowed, appropriate conditions be imposed.

6. Perused the chargesheet as well as evidence of four witnesses recorded at the trial. The initial report lodged by the informant implicates present applicants alongwith others of causing various injuries to the informant. The medical papers also indicate

injuries being sustained by the informant. It is however to be noted that the informant has been examined as prosecution witness no.1 and in his examination-in-chief, he has stated that he was not aware about the assailants who assaulted him on 13/2/2016. Similar statement is made by eye witness Vilas Katale. The panch witness Abhijit Munde and Raghunath Phad have deposed that they had signed the documents as per the say of the police. It is therefore clear from the aforesaid evidence that the informant has not identified or named the present applicants. The effect of this evidence and the further evidence that would be lead is a matter to be considered at the trial. However, for the present, the record indicates that there is no evidence recorded against the present applicants in the trial. Hence, the applicants have made out a case for their release on bail subject to imposing appropriate conditions.

7. Hence, the following order:-

ORDER

I] The applicants who have been arrested in connection with Crime no.39 of 2016 registered with

Parali City Police Station, District - Beed for the offences punishable under Sections 307, 326, 143, 147, 148, 149 of the Indian Penal Code and under Sections 4, 25 of the Arms Act, are directed to be released on bail, upon each of them furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II] The applicants shall not enter the limits of Parali-Vaijnath Taluka, District - Beed, till the completion of the trial. They shall however co-operate in the completion of the trial.

III] No steps shall be taken to influence the prosecution witnesses.

8. The observations made in the present order are only for deciding the bail Application and the trial Court shall not be influenced by the same while deciding the trial.

9. Criminal Application is accordingly allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

arp/