

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6316 OF 2016

Nahanu @ Nana Bapu Goyekar,
Age : 38 years, Occu.: Shepherd,
R/o : Shivajinagar, Tq. Sakri,
District - Dhule .. Applicant

Vs.

The State of Maharashtra
Through Police Inspector,
Nizampur Police Station,
District Dhule .. Respondent

WITH

CRIMINAL APPLICATION NO. 6321 OF 2016

Raghu S/o Velu Thelari,
Age : 35 years, Occu.: Labourer,
R/o : Navagaon, Tq. Sakri,
District - Dhule .. Applicant

Vs.

The State of Maharashtra
Through Police Inspector,
Nizampur Police Station,
District Dhule .. Respondent

Mr. N.N. Desale, Advocate for the applicant (6316/2016)
Mr. Y.B. Bolkar, Advocate for the applicant (6321/2016)
Mr. V.S. Badakh, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 14/12/2016

ORAL ORDER :

Heard.

2. Both the applicants, who have been arrested on 27/7/2016, in connection with Crime no. 41 of 2016 registered with Nizampur Police Station, Dist. Dhule for the offences punishable under Sections 307, 324, 447, 143, 147, 148, 149, 427, 504, 506 r/w. 34 of the Indian Penal Code, seek their release on bail.

3. As per the FIR dated 19/7/2016, when the informant was at his field, accused no.1 - Bhagya Thelari alongwith applicant - Raghu Thelari had come there with their sheep for grazing. As the sheep had entered the field of the informant, he told them to take them away. Said Bhagya and Raghu however ignored his request and hence informant, on his own, tried to remove the said sheep from his field. At that point of time, accused no.1 - Bhagya assaulted the informant with axe. The informant was injured in the said assault. At that point of time, the applicants and 5-6 others gave abuses and assaulted one Ananda Khairnar, who had come to rescue the informant. On that basis, the aforesaid offence came to be registered.

4. It is submitted by learned counsel for the applicants that the attack on the informant by the axe,

is by accused no.1, who is not before this Court. The allegations insofar as the present applicants are concerned, are of causing injury to Ananda Khairnar with stick. It is submitted that the recovery of axe and the stick is at the instance of accused no.1. Though the informant has suffered two grievous injuries, the injuries of Ananda Khairnar are simple in nature. It is submitted that the statements recorded are of general nature, without attributing much to the applicants. It is submitted that chargesheet has since been filed on 19/10/2016. Hence, it is prayed that the applicants be released on bail.

5. The applications are opposed by learned Additional Public Prosecutor by relying upon the police papers and the chargesheet. Reference is made to statements of witnesses – Parag Gawale, Nhanu Khairnar and Kiran Khairnar to submit that applicants were members of the group that had assaulted the informant and Ananda Khairnar. Considering the nature of injuries sustained by the informant and Ananda Khairnar, the applicants do not deserve to be so released on bail.

6. Perused the FIR as well as the chargesheet. Insofar as the assault on the informant is concerned, the same is by accused no.1 with an axe. Said accused no.1 is not before this Court. There is no allegation in the FIR that present applicant had assaulted the informant. Insofar as the role of the present applicants is concerned, it is alleged that they had assaulted one Ananda Khairnar, who had come to rescue the informant with sticks. As per the injury certificate of said Ananda Khairnar, the injury suffered is simple in nature. Statements of witnesses, relied upon by learned Additional Public Prosecutor are to the effect that applicants and others had assaulted said Ananda Khairnar. None of the witnesses has attributed present applicants with assault on the informant. In this background, therefore, I find that applicants have made out case for being enlarged on bail, subject to conditions. Moreover, the chargesheet has been filed on 19/10/2016 after completion of the investigation.

7. Accordingly, the following order :-

ORDER

I) The applicants, who have been arrested in

connection with Crime no. 41 of 2016 registered with Nizampur Police Station, Dist. Dhule for the offences punishable under Sections 307, 324, 447, 143, 147, 148, 149, 427, 504, 506 r/w. 34 of the Indian Penal Code, 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) Applicants shall not enter the limits of Sakri Tehsil, Dist. Dhule till the completion of the trial.

III) They shall co-operate in the trial by attending the Sessions Court, as and when directed.

IV) No steps shall be taken by the applicants to influence the prosecution witnesses.

8. By clarifying that the observations made in this order are only for deciding the bail Applications, the same are allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

arp/