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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.279 OF 2016

Ramchandra @ Kashinath Mallappa

Godagi and Anr.

..Applicants.

V/s.

State of Maharashtra

..Respondent.

Mr.Priyal G. Sarda for the applicant.

Mr.Y.M. Nakhwa APP for respondent-State.

CORAM : AM.BADAR, J.

DATED : 7TH JUNE, 2016

P.C. :-

1. This is an application for bail filed by the applicants / accused in Crime No.318/2015 for the offences punishable under sections 307, 353, 332, 333, 323 and 120(B) of the Indian Penal Code, 1860 and under sections 3/25 and 5/25 of the Indian Arms Act as well as section 135 of the Maharashtra Police Act.

2. Heard learned counsel for the applicants. He has vehemently argued that though it is stated by the prosecution

that gun shot was fired at the informant, the informant has suffered simple injuries and on the backside of the injury certificate a very strange opinion is given. He further argued that the applicant / accused were apprehended from the spot but their arrest is shown after 19 hours. He further argued that report to the Commissioner of Police makes it clear that recovery was fraud and everything was done at the behest of the police authorities. As against this, the learned APP argued that considering the serious nature of the offence, the applicants cannot be released on bail.

3. Perused the F.I.R. as well as papers of investigation. The F.I.R. was lodged by Ganesh Shirke, an employee of police department working in Crime Branch. According to the prosecution, when the squad of Crime Branch was doing work of patrolling, they received information that four persons are coming near one Ayurvedic Hospital at Soregaon for striking a deal of selling pistol. In pursuance to this information, team of Crime Branch laid a trap. They found four persons reaching the spot on motor cycles and when those persons were encircled, they tried to flee the spot. The members of the squad were successful in apprehending the four persons and

in that process scuffle ensued. According to the prosecution, at the time of apprehending the accused, one of the accused fired bullet at the police staff / Informant from the pistol whereas another attempt to fire another bullet at other members of the team.

4. Papers of investigation shows that two country made pistols were seized from the accused persons. Apart from that a sten gun was also seized from one of the accused persons. The learned APP has stated that applicants / accused are having criminal antecedents. Injury certificate shows that bullet fired at the informant had brushed him, causing injury to him.

5. For completion of offence under section 307 of the Indian Penal Code, causing injury is not at all necessary. The intention coupled with the overt act is sufficient for the offence punishable under section 307 of the Indian Penal Code. In the case is hand, instead of surrendering to the police officers, the accused persons indulged in firing at them. Considering the degree of criminality shown by the applicants / accused and the fact that accused persons are

having criminal antecedents, this cannot be said to be a fit case for granting bail. Hence the order.

Application is rejected.

(A.M.BADAR, J.)