

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1086 OF 2016

Shri Amar Mahaling Mane.] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Ganesh Gole i/b Rashmi Dudeja for Applicant.
Ms. Veera Shinde, APP for Respondent-State.

CORAM :- A. M. BADAR, J.
DATE :- JUNE 08, 2016

P. C. :-

1. The applicant/accused in Crime No.5/2016 for offences punishable under Sections 307, 452, 341 and 323 read with Section 34 of the IPC registered with Shivajinagar Police Station, Ichalkaranji, District – Kolhapur, at the instance of Smt. Vimal Dongare (mother of the injured), is praying for releasing him on bail during the pendency of trial.

2. Heard the learned Counsel for applicant/accused. He argued that the applicant/accused was arrested on 07/01/2016 and he is behind the bars for a period of about six months. He further argued that pre-trial detention of the applicant is not warranted at all

because of filing of the charge-sheet in the matter. He further argues that the co-accused are already released on bail.

3. The learned APP submitted that there are eye witnesses to the incident in question. The weapon of offence was recovered from the present applicant.

4. Perused the charge-sheet. On 06/01/2016 when injured Prashant Dongare was returning to his house, co-accused Papu Janvekar obstructed him by his 4 wheeler vehicle. Injured Prashant questioned co-accused Papu and returned to his house, followed by the co-accused Papu and his associates, including the present applicant. By entering inside the house of injured Prashant, co-accused Papu and his associates, including the present applicant, questioned the injured and started assaulting him in presence of his relatives. During the course of assault, present applicant/accused had whipped out a knife and gave successive blows thereof to injured Prashant. The incident was witnessed by mother of the injured who lodged the F.I.R. There are other eye witnesses to the incident in question. Perusal of injury certificate goes to show that injured Prashant has suffered stab injuries on vital parts of his body.

5. For the offence punishable under Section 307 of IPC, even inflicting injuries on the victim is not at all necessary. Intention coupled with the overt act is sufficient to make out an the offence punishable under Section 307 of IPC. In the case in hand, choice of

weapon and nature of injuries *prima-facie* reflect intention, and brutality of the act is reflected from the statement of the injured. The applicant was in no manner concerned with the alleged incident of obstruction. Still, he joined the company of the co-accused and barged inside the house of the applicant and assaulted him by means of dangerous weapons. Considering the behaviour of the applicant and the fact that the applicant pursued the victim to assault him, in my considered opinion, the possibility of tampering the prosecution evidence at the hands of the applicant cannot be ruled out. Nature of offence does not allow me to release the applicant on bail and therefore the application is rejected.

6. The observations in this order are *prima-facie* observations and the learned Trial Court is expected to decide the matter uninfluenced by these observations.

(A. M. BADAR, J.)