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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1490 OF 2016

Prakash Jaganath Dagade ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Vikas V. Dhage Patil for the applicant.

Mr.S.S.Pedne, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 3RD AUGUST, 2016

P.C. :-

1. The applicant / accused in Crime No.258/2016 for the offences punishable under section 307, 504, 506(1) read with 34 of the Indian Penal Code registered with Hinjewadi Police Station, District Pune by this application is praying for bail.

2. Heard the learned counsel appearing for the applicant / accused. He argued that that the incident in question, applicant Prakash Dagade was severely beaten by the prosecuting party which has resulted in his admission in

Sahayadri Hospital and he was treated at that hospital as an Indoor patient upto 7th June, 2016. The applicant was thereafter arrested by police in this crime. The learned counsel further argued that injured Datoba Vede is also discharged from the hospital on 13th June, 2016 and there is no possibility of conversion of the offence in graver offence.

3. I have also heard the learned APP. The learned APP argued that there are several statements of police personal disclosing how the incident in question happened. The learned APP had pointed out statement of injured Dattoba that the present applicant assaulted him by firing a gunshot. My attention is also drawn to the injury certificate of Dattoba. The learned APP has further argued that within 8 to 10 days, charge-sheet is being filed against accused persons.

4. Perused the papers of investigation. The F.I.R. which has resulted in registration of crime in question came to be lodged on 2nd June, 2016 by Pandurang Vede - brother of injured Dattoba Vede. According to the prosecution, Dattoba Vede is owner of 26 gunthas of land in Survey No.33 where tin sheds are erected and let out to tenants. On 2nd June, 2016

encroachments on the said land was being removed at the instance of Anti Encroachment Squad of the Pune Municipal Corporation. It is the case of the prosecution that at about 3.30 p.m. of 2nd June, 2016 co-accused Milind Dagade and Anil Dagade were proceedings from the said site in four wheeler vehicle. At that time, Milind and Anil Dagade hurled abuses at Sangram Dattoba Vede and Navnath Pandurang Vede. Therefore, quarrel erupted between them. Subsequently, according to the prosecution case, applicant Prakash Dagade along with son Amit Dagade came on the spot and a wordy duel between Prakash Dagade and Dattoba Vede started. Datoba questioned Prakash Dagade as to why he came to the spot. Thereafter, according to the prosecution case, applicant Prakash Dadage fired at Dattoba Vede causing injuries to him.

5. The incident is witnessed by several police personnel who were assisting the Anti Encroachment Squad. The investigator has recorded statements of A.S.I. Amit Goyal, Police Naik G.M.Chavan, Police Constables Yenare, PSI Rohidas Bhangе, Dashrath Pardeshi, A.S.I. Vasant Utase, Suresh Gaikwad, Suresh Ghule, etc. Statements of these police

personnel shows that when present applicant Prakash Dagade came on the spot, three to four persons rushed on him. Then, quarrel started between the two persons on one side and applicant Prakash Dagade on another side. Statements of police personnel shows that those two / three persons who rushed on applicant Prakash Dagade were holding branches of tree. In that quarrel, as per statement of police personnel, the present applicant fired gunshot at injured Dattoba Vede.

6. It is seen from the letter dated 4th June, 2016 issued by the Police Sub-inspector to Chinchwad Police Station that the present applicant was admitted to Sahayadri Hospital as Indoor patient because of injuries sustained by him in the incident in question. It is seen that the present applicant was possessing a licensed revolver which was used in the crime in question. Prima facie record of investigation goes to show that the present applicant was assaulted by members of the prosecuting party and then he fired at them from his revolver.

7. It is not in dispute that injured Dattoba Vede is already discharged from the hospital on 13th June, 2016. The learned APP on instructions has made a statement that shortly

charge-sheet is being filed.

8. Considering the mode and manner in which the crime in question is alleged to have happened and as the investigation is virtually over, the pre-trial detention of the present applicant is not warranted. Therefore, the order :-

- (i) The application is allowed;
- (ii) The applicant / accused in Crime No.258/2016 for the offences punishable under section 307, 504, 506(1) read with 34 of the Indian Penal Code registered with Hinjewadi Police Station, District Pune be released on bail on executing P.R. bond in the sum of Rs.15,000/- with one or more surety in the like amount;
- (iii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)