

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1558 OF 2016

1 Kalyan Hanumant Nimbalkar.
2 Nandukaumar Bapurao Nale. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. M.S. Mohite i/b. Ms. Sneha Singh, advocate for applicants.

Mr. Vinod Sangvikar i/b. Mr. Umesh Mankapure, advocate for intervenor.

Mrs. S.S. Pednekar, APP for State.

Mr. Lande, API, Phaltan City Police Station, Satara.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 23, 2016

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973 seeking enlargement on bail. The applicants herein

are arrested on 5/5/2016 and 1/4/2016 respectively in Crime No. 132 of 2016 registered at Phaltan City Police Station for offence punishable under Section 307, 363, 365, 367, 143, 147, 148, 149 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 At the outset, the learned Counsel for the applicants submits that the applicants herein are claiming to be enlarged on bail by virtue of doctrine of parity.

4 It is the case of the prosecution that on 31st March, 2016 the mother of Yuvraj Shinde lodged a report at the police station alleging therein that on 30th March, 2016 after having dinner she and her son Yuvraj had retired for sleeping. That Yuvraj had received phone call from unknown person. Yuvraj has answered to the caller that he is out of station. In the meanwhile, somebody had flashed battery from the window of his house. That thereafter, he was called outside. When he came out of the house, there were 3 cars. There were 10 to

12 persons in the said car. She had noticed that her son had some physical altercation with the said boys and thereafter, her son was taken away in one of the car. She lodged a report about the said incident on 31st March, 2016.

5 The applicants apprehended arrest. After rejection of their application for pre-arrest bail, they were taken into custody. It is the case of the prosecution that Yuvraj Shinde was abandoned by the accused person in front of primary health center. Before that he was detained in the custody of the accused person and was brutally assaulted, in as much, as he had sustained fracture to his nasal bone. He had sustained contusions and abrasions all over his body. He has managed to walk to the primary health center, wherein he received preliminary treatment and thereafter, was admitted in the hospital till 9th April, 2016.

6 The learned Counsel for the applicants has drawn attention of this Court to the statement of the injured, which was recorded on 31st

March, 2016. The statement would be relevant. He has alleged that he was abducted by all the accused person named by him. That they had together assaulted him, threatened him at the point of revolver and thereafter, abandoned in front of primary health center.

7 The learned Counsel for the applicants has drawn the attention of this Court to the orders dated 1/7/2016(BA 1186/16), 12/7/2016(BA 1347/16), 27/7/2016(BA 1474/16). It prima facie appears that the allegations levelled against all the accused is similar in nature.

8 The learned APP as well as learned Counsel for the intervenor vehemently submit that in fact, the record would indicate that the author of the injury sustained by the injured on the nasal bone is attributed to the present applicants and therefore, they do not deserve to be enlarged on bail. However, it is also submitted by the intervenor that the applicants are threatening the injured Yuvraj that upon being enlarged on bail, they would deal with him and

therefore, he apprehends threat perception at the hands of the present applicants.

9 Upon perusal of the orders, it appears that the applicant deserves to be enlarged on bail by virtue of doctrine of parity. However, certain condition needs to be imposed upon them.

10 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

11 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two sureties in like amount.

- (iii) The applicants shall not reside within the jurisdiction of Phaltan City Police Station till framing of charge.
- (iv) The applicants shall furnish their addresses and contact numbers to the concerned Investigating Officers forthwith.
- (v) The applicants shall not tamper with the prosecution evidence.
- (vi) The applicants shall co-operate for expeditious disposal of the trial.

12 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)