

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

CRIMINAL BAIL APPLICATION NO. 1815 OF 2016

Aditya Shantaram Jadhav. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

WITH

CRIMINAL BAIL APPLICATION NO. 1816 OF 2016

Yogesh Vilas Jadhav. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prashant M. Patil, advocate for Applicant.

Ms. Veera Shinde, APP for State in BA 1815/16.

Mr. R.M. Pethe, APP for State in BA 1816/2016.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 30, 2016**

P.C.:

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

2 These are applications under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested in Crime No. 12 of 2016 registered at Saswad Police Station for the offence punishable under Section 307, 326, 341, 325, 323, 143, 147, 148, 149, 504 of the Indian Penal Code. The applicant Aditya Jadhav in Cr. BA. No. 1815/2016 was arrested on 9th March, 2016 where as the applicant Yogesh Jadhav in Cr. BA No. 1816/2016 was arrested on 25/4/2016. Investigation is completed and charge-sheet is filed on 15/4/2016.

3 It is the case of the prosecution that on 16/1/2016 the complainant Rajesh Tathele lodged a report at the police station that on 15/1/2016 he and his friend Shantaram Jagdale were going on motor cycle of Shantaram Jagdale to hotel Puneri Katta. It is alleged that there was an altercation with one person namely, Vinod Badade who had raised quarrel with both the concerned. After some time, these persons had come on two motor cycles and had assaulted both the friends i.e. Rajesh Tathele and Shantaram Jagdale.

4 It is pertinent to note that both the applicants are not named in the FIR. The statement of the injured was recorded. It does not appear that the injured had named the applicants in the first statement. However, in the supplementary statement dated 15/3/2016, the injured had alleged that the applicant Yogesh had assaulted him with stick and applicant Aditya was a member of an unlawful assembly. The first informant has also given statement on the same line on 15/3/2016.

5 Perused the injury certificate of Shantaram. It appears that he had sustained fracture of both tibia and stab injury on both the legs below the knee joint. There was displaced fracture of the wall of bilateral maxillary sinuses and no significant intra cranial abnormality is noted.

6 The learned Counsel for the applicant rightly submits that injuries sustained by the victim Shantaram do not indicate that there

was an attempt to cause his murder. Moreover, it is pertinent to note that no role is attributed to the present applicants in the first information report. The allegation against applicant Yogesh that he had assaulted with stick pertain to fracture of tibia. The learned Counsel for the applicants rightly submits that an offence would be at the most under Section 325 of the Indian Penal Code. The investigation is completed andn charge-sheet is filed. The applicants are in custody for more than 6 months. Further incarceration would amount to punitive detention and hence, the applicants deserve to be enlarged on bail.

7 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.

8 Hence 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/- and one or two sureties in the like amount.
 - (iii) The applicants shall not tamper with the evidence.
- 9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)