

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

CRIMINAL BAIL APPLICATION NO.1838 OF 2016

1 Namdeo Hanumant Shinde.
2 Suraj Mahadeo Shinde.
3 Sopan Ravindra Shinde.
4 Nivrutti Ravindra Shinde.
5 Dnyandeo Hanumant Shinde.
6 Mahadeo Ramhari Shinde.
7 Vaibhav Chandrakant Madane. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. Abhijeet A. Desai a/w. Ms. Vrushali Maindad, advocate for Applicants.

Mr. Rajan Salvi, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 6, 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. The applicants herein are arrested on 14/6/2016 and 16/6/2016 in Crime No. 83 of 2016 registered at Bhigwan Police Station on 12/6/2016. Investigation is completed and applicants are charge-sheeted for the offence punishable under section 307, 143, 147, 148, 149, 323, 294, 504, 506 of the Indian Penal Code.

3 It is a matter of record that the application filed by the present applicants under section 439 of the Code of Criminal Procedure, 1973 was rejected by this Court prior to filing of the charge-sheet.

4 It is the case of the prosecution that on 12/6/2016 the first informant Vitthal Baban Dhale had gone to take JCB machine of Narayan Dattu Bhosle. Upon enquiry, the first informant had learnt that the owner of the machine had directed him to take the machine for digging for pipe line of one Subhash Kale i.e. the injured. At that relevant time, it is alleged that the present applicants had arrived at

the spot. It is alleged that the applicants had yelled seeing that they would teach a lesson to Subhash Kale and assaulted him with deadly weapons. They have returned at the spot and again mounted assault on Subhash Kale.

5 Upon perusal of the compilation of the charge-sheet, it appears that on 12/6/2016 Subhash was examined at Primary Health Center and it was noticed that he had sustained one incise wound, which was grievous injury. He was subjected to CT Scan and other test. That the discharge card issued by Ujani Hospital would show that Subhas Kale had sever headache. He had sustained an injury on 12/6/2016. He was shifted to the hospital on 16/6/2016 at 10.30 p.m. The CT scan shows that minimal cerebral edema. The scan report also shows that there was no evidence subdural, extradural or intracerebral hemorrhage. There is no evidence of fracture and no significant abnormality.

6 Taking into consideration the nature of allegations, nature of injuries, injury certificates, CT scan report and moreover the fact that the investigation is completed and charge-sheet is filed, 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, 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.15,000/- each and one or more sureties in the like amount.

(iii) The applicants shall report to the concerned police station on 1st Sunday of each month till framing of charge.

(iv) The applicants shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)