

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

CRIMINAL BAIL APPLICATION NO. 2057 OF 2016

1 Shivanand s/o Rajshekhar Birajdar.	
2 Vhanappa Shrishail Koli.	... Applicants.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Priyal G. Sarda, advocate for Applicants.

Mr. S.H. Yadav, APP for State in BA 2057/16.

Mr. S.S. Waykar, PSI, Akkalkot South Police Station.

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

P.C.:

1 Heard the learned Counsel for the applicant 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 applicant No.1 herein is arrested on 23/5/16 and applicant No. 2 is arrested on 4/4/16 in Crime No. 88 of 2016 registered at Akalkot Police Station for offence punishable under

Section 307, 143, 148, 149 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 22/3/2016 Santosh Bhapurao Umadi lodged a report at the police station alleging therein that on 21st March, 2016 he was in the company of this friend Siddharam Arwat. His brother Sanjay Umadi also jointed them. At that time, he saw Jatingraya Madgonde overtook the motorcycle and crossed them. He asked Sanjay as to why he had overtaken him at the previous time and had threatened him. There was verbal altercation. In the mean while, Jatingraya called some of his friends by giving a phone call on his cell phone and instigated others to assault him. The first informant had tried to pacify them. At that time, it is alleged that Shivanand was armed with iron iron and had assaulted the brother of the first informant Sanjay with the same. It is also alleged that all the accused persons had assaulted Sanjay with deadly weapons and hence, attempted to commit murder of Sanjay.

4 Perused the papers of investigation. Medical certificate issued by Shri C.S.M. General Hospital, Solapur shows that Sanjay had sustained 3 contused lacerated wounds which are described as simple in nature. The certificate also shows that the Sanjay was admitted in ICU on 22/3/2016 and was discharged on 23/3/2016. The applicants were arrested and are in custody.

5 The learned APP submits that the applicants have criminal antecedents. These offences are registered against them in neighbouring State of Karnataka under section 379, 399 of the Indian Penal Code and it is doubtful as to whether they would be available for trial.

6 Taking into consideration the nature of injuries and the fact that the applicants have been in custody for almost 6 months, the applicants deserve to be enlarged on bail on some stringent conditions.

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.50,000/-each and one or two local solvent sureties in the like amount.
 - (iii) The applicants shall report to Akalkot South 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)