

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1930 OF 2016

Mr. Somnath Mohan Tapkir	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

ALONG WITH
CRIMINAL BAIL APPLICATION NO. 1818 OF 2016

1. Aniket Sanjay Kad	)	
2. Rohit Yadgiri Shegure	)..	Applicants
vs.		
The State of Maharashtra	..	Respondent

ALONG WITH
CRIMINAL BAIL APPLICATION NO. 2059 OF 2016

Shyam Mahadev Ghodke	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

Mr. A.P.Mundargi, Senior Counsel i/b. Mr. Rajesh A. More, Advocate for the applicant in BA/1930/2016.

Ms. Pranali Kakade i/b. Mr. Subhash Hulyalkar for the applicant in BA/1818/2016.

Mr. Rahul S. Kate, Advocate for the applicant in BA/2059/2016.

Ms. Veera Shinde, APP for the State in BA/1930/2016.

Mr. S.H. Yadav, APP for the State in BA/1818/2016.

Mr. S.S.Pednekar APP for the State in BA/2059/2016.

Mr. M.A.Kamble, PSI, Khadki Police Station, Pune.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 23rd November, 2016.

P.C.

Heard. These are the applications under Section 439 of Cr.P.C. The applicants herein are arrested in Crime No.125 of 2016 registered at Khadki Police Station, Pune. The investigation is completed and charge-sheet is filed on 9.8.2016.

2. The applicant - Somnath Mohan Tapkir in Criminal Bail Application No.1930 of 2016 is arrested on 14.6.2016. The applicant – Shyam Ghodke in Criminal Bail Application No.2059 of 2016 is arrested on 12.6.2016 and the applicants – Aniket Sanjay Kad and Rohit Shegure in Criminal Bail Application No.1818 of 2016 are arrested on 12.6.2016.

3. It is the case of the prosecution that on 12.6.2016, Lalita Sugat lodged a report at the police station that on 11.6.2016 at about 9 p.m. when she was at home, she heard noise outside her house. Out of curiosity, she had come out of the house and saw 30 – 35 people were on 15 – 20 motor-cycles and they were damaging the public property. They had created terror in the area. She soon realized that her daughter-in-law and her grandson are alone at home. At that time, accused Soniya Bilad who was armed with an axe attempted to assault the complainant with the butt end of axe. She escaped the said assault and she tried to pull her grandson outside the

house. She raised hue and cry. people in the locality had gathered to rescue them and at that time, eye-witnesses were assaulted by Bilad and all his associates. They were raising slogans such as that anyone who tries to dare Bilad will face dire consequences. It is pertinent to note that the complainant realized that several motor-cycles were damaged in the said incident and in the first information report, she has given the registration number of the said motorcycles and has stated that in the said incident eye-witnesses Vishal Chavriya, Hemant Pangudwale and Peter Anthony were assaulted by the said unlawful assembly.

4. It is pertinent to note that in the charge-sheet, there is medical certificate of only one injured person i.e. Vishal Chavriya who was referred by Khadki Police Station to the hospital. He had sustained two simple injuries - one on the left fore-arm and another on mid-thigh. Both the injuries are described as simple injuries. The learned APP fairly submits that the other injury certificates are not on record for the reason best known to the investigating officer.

5. The learned Senior Counsel submits that in fact the name of the applicants is not stated in the FIR and the name spelt out by the first

informant is Somnath Sathe. The applicant was arrested. His application for bail was rejected by the Sessions Court. Thereafter, he had approached the Hon'ble High Court seeking enlargement on bail. The application was to be heard on 14.7.2016.

6. That on 13.7.2016, the statement of the son of the first informant was recorded and he has stated before the police that when the incident occurred, he was not at home. His mother called upon him and when he was returning home, his mother had advised him not to come home in the presence of the accused. He was hiding behind a tree and at that time, he had seen the present applicant was sitting as a pillion rider on the motorcycle of Bilad. The learned Senior Counsel rightly submits that since there was no other material to oppose the application for grant of bail. The statement of the son of the applicant was recorded practically after more than one month since the date of incident i.e. 11.7.2016 and the statement is recorded on 13.7.2016.

7. Be that as it may, taking into consideration the papers of investigation and the submissions across the Bar, more particularly the injury certificate of Vishal, it cannot be said that the present applicants had

committed an offence punishable under Section 307 of IPC. It is argued that at the most, it can be said that the accused had committed the offences punishable under Section 324 read with Sections 147, 148 and 149 of the Indian Penal Code. Without going further into the merits of the matter and taking into consideration the fact that the applicants are in jail since 12.6.2016, the applicants deserve to be enlarged on bail.

8. The observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicants shall report to the concerned police station on first Sunday of each month till framing of the charge.

All the applications are allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)