

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2178 OF 2016

Tukaram Sakharam Badade

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prahsant Patil Advocate for Applicant.

Mr. Vinod Chate APP for the State.

Mr. S. N. Mahajan, A.S.I. Saswad Police
Station, Pune (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 23rd NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 09/03/2016 in crime no. 12 of 2016 registered at Saswad Police Station for offence punishable under sections 307, 341, 325, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 16/01/2016 Rajesh Tathele lodged a report at the police station alleging therein that on 15/01/2016, he was in the company of his friend Shantaram Jagdale. That he had been to hotel Puneri Katta. At the hotel, complainant had gone inside the hotel

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whereas Shantaram was waiting in the parking area near the motorcycle. That there was a quarrel between Vinod Badade, his friends and the first informant. Verbal altercation had taken an ugly turn and soon thereafter, Vinod had mounted assault upon Shantaram with a sickle. Vinod was accompanied by two unknown persons who were armed with wooden logs and they had also mounted assault upon Shantaram. He had sustained injuries in the nature of fracture of both tibia and injuries on his head. Shantaram was taken to Sopandeo Hospital at Saswad and was admitted in the hospital. On the basis of the said report, crime no. 12 of 2016 was registered. Investigation is completed and charge-sheet is filed.

3) The statement of the injured Shantaram was recorded. He has specifically stated that he was assaulted by Vinod, Shubham and two unknown persons near hotel Puneri Katta.

4) The learned APP submits that Shubham is still absconding whereas Vinod Badade is in custody. The supplementary statement of the injured would show that present applicant was a member of the unlawful assembly and they were armed with iron sickles. It is true that the medical certificate indicates that the injured Shantaram had sustained grievous injuries. This

court by an order dated 30/09/2016 had allowed the bail application of Aditya Jadhav and Yogesh Jadhav who have also been named by the injured. Applicant herein would also be entitled to be enlarged on bail by virtue of doctrine of parity. However, accused Vinod Badade or absconding accused Shubham shall not claim bail on the grounds of parity as there is specific role attributed to them and it is clear that they had initiated the altercation and assaulted Shantaram with deadly weapons. It is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

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

(SMT. SADHANA S. JADHAV, J.)