

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Application No. 01151 of 2017

District : Jalgaon

1. Chandrakant s/o. Yuvraj Borse,
Age : 50 years,
Occupation : Service,
R/o. Radhakrushanagar, Amalner,
Taluka Amalner,
District Jalgaon.
2. Jitendra s/o. Dagdu Sonawane,
Age : 30 years,
Occupation : Service,
R/o. Samarthnagar, Amalner,
Taluka Amalner,
District Jalgaon. .. Applicants.

versus

1. The State of Maharashtra,
Through Superintendent of
Police,
Jalgaon.
2. P.S.I., Marwad Police Station,
Marwad, Taluka Amalner,
District Jalgaon. .. Non-applicants.

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*Mr. Prakashsing B. Patil, Advocate, for the
applicants.*

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
non-applicant nos.01 and 02.*

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CORAM : T.V. NALWADE, J.

DATE : 24TH MARCH 2017

ORAL ORDER :

By the present application, the applicants are seeking pre-arrest bail in connection with Crime No. 12/2017, registered with Marwad Police Station, Taluka Amalner, District Jalgaon, for offences punishable under Sections 392, 324, 341, 323, 294, 504, 504B, 427, read with Section 34 of the Indian Penal Code.

02. Both the sides are heard.

03. The crime is registered on the basis of direction given under Section 156(3) of the Code of Criminal Procedure, 1973, by the Judicial Magistrate (F.C.), Amalner, in complaint bearing Criminal Misc. Application No. 29/2017, to make investigation.

04. The complainant had some transaction with accused no.02, Jitendra s/o. Dagadu Sonawane. The complainant had taken hand loan from Jitendra Sonawane and there was some dispute on that amount. In the past, the complainant had filed private complaint against present applicants as they had demanded interest on the hand loan and they had assaulted him. Subsequently, settlement took place and complaint was withdrawn.

05. It is alleged in the FIR, that due to revengeful attitude of the applicants, on 09.10.2016, when the complainant and his friend Shaikh Sharif

were going on motorcycle to his native, present applicants and one unknown person pursued them and applicant no.01 Chandrakant Borse threw chilly powder in the eyes of the complainant. It is alleged that then Chandrakant Borse gave slaps and fist blows on his stomach and chest, whereas applicant no.02, Jitendra Sonawane, gave blow by means of cutter on thigh and paw of the complainant. It is alleged that the applicant no.01 took away cash of Rs. 2,000/- from his pant. The incident took place on 09.10.2016, whereas private complaint came to be filed on 19.01.2017.

06. Copy of the report given in respect of the incident on 09.10.2016 is on record and it shows that the report was treated as non-cognizable offence as the allegations were constituting offence under Sections 323, 504, 506 and 427 of the Indian Penal code. There was no allegation that the amount was taken from his pocket by applicant no.01 Chandrakant Borse. Thus, first time in the private complaint, such allegations are made to make the offence cognizable. Injury certificate is there and it shows that the complainant was examined on 09.10.2016 and one incised wound on right thigh was noticed and three other injuries of blunt trauma on abdomen, back and chest were found. It can be said that the injuries were simple in nature. There was dispute of aforesaid nature between the parties and Police preferred not to take action against the present applicants.

07. In view of the above, this Court holds that the custodial interrogation of the applicants is not necessary and they are entitled for pre-arrest bail.

08. In the result, the Application is allowed.

In the event of arrest of the applicants, in the above crime, they be released on bail on their executing P.B. & S.B. of Rs. 15,000/- [Rupees fifteen thousand] each, on the following conditions :-

(i) The applicants shall attend the concerned Police Station on 01st and 02nd April 2017, between 09.00 a.m. and 12.00 noon and they shall co-operate the Investigation Officer in investigation of the crime in question.

(ii) The applicants shall not contact any of the prosecution witnesses and they shall not tamper with the prosecution evidence in any manner whatsoever.

(iii) The applicants shall not indulge in commission of similar offences in future.

(T.V. Nalawade)
JUDGE

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