

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1407 OF 2017
WITH
CRIMINAL APPLICATION NO. 1819 OF 2017

Umakant s/o. Vishwanath Dhonde **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. N.B. Suryawanshi, Advocate for applicant.

Mr. S.M. Ganachari, APP for State.

Mr. S.J. Rahate, Advocate for assist to APP.

CORAM : T.V. NALAWADE, J.
DATED : April 12, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard. The papers of investigation were made available to this Court for perusal.

2. Application filed for assist to learned APP is allowed and disposed of. Learned counsel Shri. Rahate is allowed only to assist the learned APP.

3. The crime at C.R. No. 67/2016 is registered on the basis of report given by Kailas Dhonde in Sonkhed Police Station,

Tahsil Loha, District Nanded for the offences punishable under sections 326, 323, 149 etc. of Indian Penal Code. Allegations are made that there was some dispute due to filing of proceeding by the side of complainant against the elected candidate, wife of one of the accused in Village Panchayat election. Allegations are made that on 11.10.2016 after 10.00 p.m. when the complainant, his brother Vaijnath Dhonde were present near the temple, all the accused came there and they started assaulting the complainant and Vaijnath Dhonde with sticks. Allegations are made that during incident Vaijnath Lute, one accused made injured Vaijnath Dhonde to fall on the ground and after that accused Shivdas pressed the left leg of Vaijnath Dhonde and Tukaram Lute lifted the said leg of injured Vaijnath Dhonde and then the three persons like Vaijnath Lute, Tukaram Lute and one another virtually broke the left leg of injured Vaijnath Dhonde. Allegations are made that after that Gajanan Lute, present applicant and others came there with stick and all of them then assaulted complainant Kailas Dhonde and Vaijnath Dhonde by using stick. There is statement of Vaijnath Dhonde and there are statements of other eye witnesses. Thus, the allegation is made that due to the aforesaid political dispute, the incident in question took place.

4. This Court has perused the injury certificates. The injury certificate in respect of Vaijnath Dhonde shows that he sustained two injuries. Both injuries were on left lower limb anteriorly, one is a contusion and one is abrasion. There was fracture midshaft with tibia fracture and abrasion. Kailas sustained three injuries, two contusions and one abrasion and these injuries were on left forearm, left leg and at buttock and they were simple injuries. The learned APP submitted that operation was required to be performed on Vaijnath Dhonde and he was indoor patient for 12 days for the operation.

5. Though the crime is registered for offence punishable under section 326 of I.P.C., there is material of aforesaid nature and there is allegation that present applicant came to the spot when the leg of Vaijnath Dhonde was broken.

6. The learned APP submitted that there is one more circumstance against the present applicant that he was involved in murder case in which father of complainant was murdered, but the present applicant was acquitted. The learned APP submitted that present applicant is shown as one of the accused in double murder case and in that case Vaijnath Dhonde is a witness. The learned APP submitted that to pressurize

Vaijnath and Kailas, the incident in question took place. The material produced by police which already quoted does not show that the incident did take place to pressurize the complainant and his brother. In any case, considering the role played by the present applicant, which is mentioned in the F.I.R. and as the applicant is behind bars since 11.1.2017, this Court holds that it is not desirable to keep the applicant behind bars till the disposal of the case. It is not certain as to how much time will be required for disposal of the case.

7. In the result, the application is allowed. The applicant is to be released on bail on his furnishing PR and SB of Rs. 15,000/- (Rupees fifteen thousand). He is not to tamper with the prosecution witnesses. He is not to commit similar offence.

[T.V. NALAWADE, J.]

ssc/