

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

906 CRIMINAL APPLICATION NO. 1550 OF 2016
WITH APPLN/2167/2016 WITH APPLN/3042/2016 IN
APPLN/2167/2016 WITH APPLN/1057/2017 WITH
APPLN/1058/2017 WITH APPLN/1059/2017 WITH
APPLN/1060/2017 WITH APPLN/1061/2017

THE STATE OF MAHARASHTRA
VERSUS
RAKESH LAXMAN KHARARE

Shri. A.R. Borulkar, Additional Public Prosecutor, for
applicant in Criminal Application Nos.1550 of 2016 and
Criminal Application Nos.1057 to 1061 of 2017 and for
respondent in Criminal Application No.2167 of 2016.

Shri. A.S. Kale, Advocate, holding for Shri. S.B. Talekar,
Advocate, for applicant in Criminal Application No.2167 of
2016.

Shri. Shaikh Mazhar A. Jahagirdar, Advocate, for applicant
in Criminal Application No.3042/2016 to assist Additional
Public Prosecutor in Cri. Application 2167/2016.

Coram: T.V. NALAWADE, J.

Date: 6 April 2017

ORDER:

1) Criminal Application No.1550 of 2016 is filed
for cancellation of bail under section 439 (2) of the Code
of Criminal Procedure. Both the sides are heard.

2) The bail is granted to the respondent Rakesh Kharare by learned Additional Sessions Judge Shrirampur, District Ahmednagar in a case filed for offence punishable under sections 302, 307, 326, 147, 149 etc. of the Indian Penal Code. This case is filed on the basis of Crime No.I-353/2015 registered with Shrirampur City Police Station. This Court has gone through the papers of investigation which were made available to this Court by the learned Additional Public Prosecutor.

3) The material collected shows that there was dispute between two groups and due to that at least three incidents took place on 3-12-2015 between the two groups. In the incident which took place at 3.00 p.m. near Belapur Naka of Shrirampur, Sunil Sonawane was murdered and attempt on the life of Kishor Gangawane was made. In the F.I.R. there is mention of names of at least 10 persons who took part in the incident. In the F.I.R. there is mention of some unknown persons who were 4 to 5 in number and they were holding wooden logs. In the F.I.R. there is specific mention of the vehicle on which the assailants had come and there is no mention of

white colour vehicle in the F.I.R. However, in the statement of witness Sachin Waykar which was recorded on 3-12-2015 itself, there is mention of one white colour vehicle. He has made allegation that Rakesh had come with one person and he was holding wooden log and he participated in the incident by using wooden log.

4) Kishor, who was injured, is alive. In his statement he has not taken name of Rakesh. In his statement there is mention of some unknown persons but papers of investigation do not show that after arrest of present applicant test identification parade was held, opportunity was given to Kishor to identify Rakesh.

5) There is no material like clothes of present respondent having blood stains or any other incriminating material against the present respondent. The allegations in the F.I.R. against unknown persons are very vague in nature. Charge sheet is filed against 23 persons. Present respondent was behind the bars from 4-12-2015. All these circumstances are considered by the Judge of the Sessions Court. The present application is filed on merits by contending that the Sessions Court ought not to have

granted bail in favour of present respondent Rakesh. Cancellation of bail is a serious thing and in view of the aforesaid material which is available against Rakesh this Court holds that it is not desirable to cancel the bail granted to respondent. Criminal Application No.1550 of 2016 stands rejected.

6) Criminal Application No.3042 of 2016 filed in Criminal Application No.2167 of 2016 for permission to assist the learned Additional Public Prosecutor is allowed.

7) After advancing arguments exhaustively by the learned counsel for the applicant when this Court expressed that the Court is not inclined to grant the relief, the learned counsel, on instructions, submitted that he wants to withdraw the application. Criminal Application No.2167 of 2016 is disposed of as withdrawn.

8) Issue notice in Criminal Application Nos. 1057/2017, 1058/2017, 1059/2017, 1060/2017 and 1061/2017 made returnable on 4 May 2017.

Sd/-
(T.V. NALAWADE, J.)

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