

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

CRIMINAL APPLICATION NO. 2867 OF 2017

- 1 Vaibhav s/o Bhimrao Khandekar,
Age 31 years, Occ. Social Work, ... **Applicants**
R/o. Udaynagar, Nanded, Tq. &
Dist. Nanded.
- 2 Manoj @ Pappu s/o Ashok Kamble,
Age 26 years, Occ. Labourer,
R/o. Jai Bhim Nagar, Nanded, Tq
& Dist. Nanded.
- 3 Swapnil s/o Pirajirao Phule,
Age 27 years, Occ. Contractor,
R/o. Pournimanagar, Nanded Tq.
& Dist. Nanded.
- 4 Vaibhav s/o Shankarrao
Pandhare, Age 20 years, Occ.
Education, R/o. Gopalnagar,
Sangvi, Nanded, Tq. & Dist.
Nanded.
- 5 Vishal s/o Shankarrao Pandhare,
Age 25 years, Occ. And r/o. As
above.

VERSUS

The State of Maharashtra, ... **Respondent**
Through The Assistant Police
Inspector, Bhagyanagar Police
Station Nanded, Tq. & Dist.
Nanded.

Mr. R. S. Deshmukh, Advocate for the applicants
Mr. A. R. Borulkar, APP for the respondent/State.

CORAM : K. L. WADANE, J.

DATE : 18th JULY, 2017

ORDER:

1. Heard Mr. Deshmukh, learned counsel appearing for the applicant and Mr. Borulkar, learned APP appearing for the respondent-State.

2. Informant Shailendra Thakur lodged complaint to the police station Bhagyanagar Nanded alleging that, on 14.05.2017 at about 7.15 p.m. accused-applicant No. 1 phoned to the complainant and threatened him and also called him at Sainath Jewelers, near Zankar Bar Nanded. Again applicant No. 1 called the complainant on phone at about 19.00 hours. Thereafter at about 19.15 hours all the accused persons along with present applicants came in front of the house of the informant in Scorpio jeep. The present applicants asked the informant why he has doing work of a political party. Thereafter accused persons assaulted to the informant and three witnesses namely Bharat, Soni @ Aniket and Dharmapal by means of sword, dragger. Accused also damaged shop and the articles lying

therein including idol of Goddess Laxmi.

3. I have perused the papers of investigation including the medical certificates of the informant as well as injured witnesses. It is the case of the prosecution that the present applicants assaulted the informant and other witnesses by means of sword and dragger. If at all the assault by sharp weapons, then certainly some injuries due to sharp and cutting instrument may have appear on the person of either informant or the witnesses. However, the medical certificates show that the informant Shailendra Thakure received one injury, description and dimension of which is not given, but it is blunt trauma and nature of the injury is simple, caused by hard and blunt object. The injury certificate of Dharmapal shows, he sustained one simple injury i.e. abrasion of 4 cm, caused by hard and blunt object. Aniketh @ Sonu received one CLW 2 x 0.5 x 0.5 cm on left parietal region, nature of the injury is simple and caused by hard and blunt object. The medical certificate of Bharat shows that he received one abrasion of 1x1 cm on right thumb, caused by hard

and blunt object and simple in nature.

4. So, from the injury certificates, it appears that, there must be assault on the informant and other injured persons by hard and blunt object. However, the witnesses are deposing contrary. Particularly, the informant has narrated the incident of assault by accused persons by sword and dragger, which apparently appears to be incorrect. From the record it appears that the applicants were arrested on 15.05.2017 and they were in police custody till 30.05.2017. It means that all the accused-applicants are available for custodial interrogation.

5. Looking to the contradiction between the oral evidence and the documentary evidence, it appears that, prima-facie the offence punishable under section 307 of the Indian Penal Code do not constitute. In view of the above, the applicants are entitled for bail. Hence, following order.

O R D E R

(1) The applicants shall be released on bail in

connection with Crime No. 161/2017, registered with Bhagyanagar Police Station, Nanded District Nanded, on his executing P.R. Bond of Rs. 15,000/- [Rs. fifteen thousand only] each with one solvent surety in the like amount.

- (2) Applicant No. 1 Vaibhav Bhimrao Khandekar shall attend the police station once in a week i.e. on Monday between 10 a.m. To 12 noon, till filing of the charge-sheet.

6. Criminal application disposed of.

(K. L. WADANE, J.)

mkd/-