

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

CRIMINAL APPLICATION NO.3171 OF 2017

- | | | |
|---|---|----------------|
| 1 | Gajanan s/o Prakash Shinde
Age 31 years, Occu: Agri.
R/o Varudi, Tq. Badnapur,
Dist. Jalna | ... Applicants |
| 2 | Machindra s/o Prakash Shinde
Age 29 years, Occu: Agril &
Transport R/o Varudi Tq. Badnapur
Dist. Jalna | |

VERSUS

- | | | |
|---|---|------------------------|
| 1 | The State of Maharashtra
Through Badnapur Police Station,
Dist. Jalna | ... Respondents |
| 2 | The Superintendent of Police,
Jalna, Dist. Jalna | |

Mr. Sushan B. Choudhari, Advocate for the applicant
Mr. A. R. Borulkar, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 13th July, 2017

ORDER:

1. Heard Mr. Choudhari, learned counsel for the applicant and Mr. Borulkar, learned APP for the State.
2. This application is filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No.87/2017, registered with Badnapur Police Station, Dist. Jalna for the offences punishable under Sections 307, 143, 147, 148, 149 of the Indian Penal Code.
3. Learned counsel appearing for the applicant

submits that accused Nos. 3 to 4 in the crime are already released on regular bail by the learned Sessions Judge. I have perused the allegations against the present applicants. From the contents of the first information report, it appears that the present applicant No.1 assaulted to the father of the informant by stick on the head and applicant No.2 caught hold the hands of the injured. Rest of the accused persons assaulted him by kick and fist blows.

4. From the statement of witness-injured Bhausahab it appears that he has also narrated the same things as mentioned in the first information report. From the medical certificate dated 22.05.2017, it appears that the injured was admitted in Adhar Multi-Specialty Hospital due to head injury with multiple contusions. He was kept in ICU under observation for six days. Injury certificate shows the following injuries:

"H/o Assault by village people with wooden rod/punches- He had following injury:

- 1) Contusion Chest R side (Anterior) Near Neeple 6 cm x 2 cm
- 2) Contusion lower Back region more on L side 3 cm x 2 cm
- 3) Contusion temporal region 3 cm x 3cm"

5. From the statement of witness and medical certificate, prima facie, it appears that the present applicant No.1 has assaulted to the father of the informant with the help of stick. In such circumstance, custody of Applicant No.1 is required for recovery of the stick. However, looking to nature of allegation against Respondent No.2, I do not think that custody of applicant no.2 is required for recovery of any weapon. Hence following order:

O R D E R

- i. Criminal application is partly allowed.
- ii. Application for pre-arrest bail to the extent of applicant No. 1 is rejected.
- iii. In the event of arrest of applicant No. 2 Machindra in connection with Crime No.87/2017, registered with Badnapur Police Station, Dist. Jalna, he shall be released on bail on his executing P.R. Bond of Rs. 10,000/- [Rs. Ten thousand only] each, with one solvent surety in the like amount.
- iv. Applicant No. 2 shall not tamper with the evidence of prosecution in any manner.

- v. Applicant No.2 shall attend Badnapur Police Station, Dist. Jalna, as and when called by the Investigating Officer, till filing of the charge-sheet.
6. Criminal application is disposed of.

(K. L. WADANE, J.)

JPC