

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

CRIMINAL APPLICATION NO. 3208 OF 2017

Mahesh @ Munna s/o
Rangnath Bagwale

... Applicant

VERSUS

The State of Maharashtra

... Respondent

.....

Mr. S.J.Salunke, advocate for the applicant
Mr. S.B.Joshi, A.P.P for respondents

.....

CORAM : K.L.WADANE, J.

DATED : 5th JULY, 2017

O R D E R :

Heard Mr. Salunke, learned counsel for the applicant and Mr. Joshi, learned A.P.P. for the respondents.

2. One Ravi Mundhe resident of Parli Vaijnath gave statement before the police in the hospital at Latur stating that on 13.2.2016 at about 8.00 to 8.30 a.m. when he was returning from Gym, present applicant and other accused persons came there. The present applicant threatened to kill the informant and all the accused persons assaulted the informant by means of sickle, sword.

Due to assault, informant tried to run away to save himself in a nearby transport office. Thereafter another accused Nitil Bagwale assaulted him by Katti. The present applicant tried to assault him by means of sickle.

3. On the basis of information given by the informant, offence came to be registered against the applicant and other six accused persons at Crime No. 39 of 2016 for the offences punishable under Sections 307, 147, 148, 149 of the Indian Penal Code.

4. After completing the investigation, the charge sheet was submitted against other six accused persons showing the present applicant to be absconding. The trial of six accused persons was conducted and ultimately all of them were acquitted. Now, the police wants to arrest the present applicant with a view to submit supplementary charge sheet.

5. I have gone through the reasons recorded by the learned Additional Sessions Judge. In para 9 of the said judgment, it has been specifically

observed as follows :-

"9. It is to be noted that, the complainant Ravi Munde, an eye witness Vilas Katle and Laxman Munde are also turned hostile. None of them have stated anything about presence of these accused persons on the spot during course of incidence along with deadly weapons. Even these witnesses have not uttered any single word about assault caused by these accused persons to the complainant Ravi Munde. So almost all material witnesses are turned hostile and have not supported to the case of prosecution. "

6. Looking to the above observations, it appears that all the material witnesses have turned hostile. They have not stated anything against the present applicant or the other accused persons. In such circumstances, the arrest of the present applicant for the purpose of investigation is meaningless. Therefore, the applicant can be protected from his arrest.

7. Hence, the following order.

(i) Criminal Application is allowed.

(ii) In the event of arrest, applicant be released on bail in connection with Crime No.39 of 2016, registered at Parli City police station, District Beed, on furnishing P.R. bond of Rs.

15,000/- with one surety in the like amount

8. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm