

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3470 OF 2017

- 1 Harun Mushtaq Bagwan, Age 42 ... **Applicants.**
years, Occ. Business.
- 2 Anees Mushtaq Bagwan, Age 37
yers, Occ. Business.

Both R/o. Mullawada, Pachora,
Tq. Pachora, Dist. Jalgaon.

V E R S U S

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

Mr. Joydeep Chatterji, learned Advocate for the
Applicants.

Mr. A. R. Borulkar, A.P.P. for the respondents/State

WITH

CRIMINAL APPLICATION NO. 3471 OF 2017

Bilal Mushtaq Bagwan, Age 34 ... **Applicant.**
years, Occ. Bussines, R/o.
Mullawada, Pachora Tq.
Pachora, Dist. Jalgaon.

V E R S U S

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

Mr. Joydeep Chatterji, learned Advocate for the
Applicants.

Mr. A. R. Borulkar, A.P.P. for the respondents/State

CORAM : K.L. WADANE, J.

DATE : 24th July, 2017

ORDER :

1. Criminal Application No. 3470 of 2017 is for pre-arrest bail and Criminal Application No. 3471 of 2017 is for regular bail. Learned advocate Mr. Chatterji appearing for the applicant has not-pressed the prayer of pre-arrest bail for the applicant No. 1 Harun Mushtaq Bagwan (in Cri.Application no. 3470 of 2017). Hence, application is disposed of as against applicant No. 1 Harun Mushtaq Bagwan.

2. Heard Mr. Chatterji, learned counsel appearing for the applicants and Mr. Borulkar, learned APP appearing for the respondents/state.

3. Mr. Chatterji, learned counsel appearing for the applicants points out the contents of the first information report and submits that, the allegations against the applicant no. 2 Anees Mushtaq Bagwan (in Cri. Application no. 3470 of 2017) are only about assaulting the informant by fist and kick blows. The another accused Bilal Mushtaq Bagwan (in Cri. Application no. 3471 of 2017) is praying for regular bail under section 439 of the Code of Criminal Procedure. He was available for custodial

interrogation and he was in police custody. After investigation is over he was remanded to MCR.

4. On perusal of the first information report it appears that, there are allegations against the applicant No. 1 Harun Mushtaq Bagwan about the assault by sharp weapon. However, there are only allegations against the applicant No. 2 Anees Mushtaq Bagwan that he assaulted the informant by means of fist and kick blows. Looking to the allegations, against the applicant no. 2 Anees, it appears that, his custodial interrogation is not necessary. There are no allegations about use of any weapon, therefore, question of recovery of weapon from the possession of applicant No. 2 Anees does not arise.

5. On perusal of the contents of the first information report it appears that, the informant alleged that accused Bilal and Harun have assaulted the informant by means of sharp weapon. However, statements of other witnesses namely Mustafa Bagwan, Julfikhar Bagwan speak otherwise. They have stated that, the brother of the accused Bilal namely Anees and Harun have assaulted the informant by means of

fist and kick blows.

6. In view of the above, I am of the opinion that, the applicant No. 2 Anees Mushtaq Bagwan in Criminal Application No. 3470 of 2017 can be protected from his arrest and since the accused Bilal Mushtaq Bagwan (in Criminal application No. 3471 of 2017) was available for interrogation, he can be released on regular bail. Hence, following order.

O R D E R.

(1) Criminal Application No. 3470 of 2017 is partly allowed.

(2) In the event of arrest of the applicant No. 2 Anees Mushtaq Bagwan in connection with Crime No.103 of 2017, registered with Pachora Police station, District Jalgaon, he be released on bail on his furnishing P.R. bond of Rs. 10,000/- (Rupees ten thousand only), with one surety in the like amount.

(3) The applicant shall attend the police station as and when called by the investigating officer and to co-operate with further investigation.

(4) Criminal Application No. 3471 of 2017 is allowed.

(5) Applicant Bilal Mushtaq Bagwan be released on bail in connection with Crime No.103 of 2017, registered with Pachora Police station, District Jalgaon, on his furnishing P.R. bond of Rs. 10,000/- (Rupees ten thousand only), with one surety in the like amount.

7. Both Criminal Applications are disposed-of.

(K.L. WADANE, J.)

mkd/-