

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

CRIMINAL APPLICATION NO. 3982 OF 2017

1. Raju @ Sham Dhondu Koli
Age: 52 years, Occu.: Labour
2. Monty @ Harshal Raju @ Sham Koli
Age: 23 years, Occu.: Labour,

Both R/o Mahadeo Chauk, Bazar Patta,
Harivitthal Nagar, Jalgaon,
Tq. & Dist. Jalgaon.

..APPLICANTS

VERSUS

1. State of Maharashtra
2. Sandip Ashok Yashod
Age: 25 years, Occu.: Labour,
R/o Harivitthal Nagar,
Near Ambedkar Statue, Jalgaon.

..RESPONDENTS

WITH

CRIMINAL APPLICATION NO. 4222 OF 2017

1. Pramod Sharad Ingle
Age: 23 years, Occu.: Labour
2. Kailash Buddha Hatkar
Age: 30 years, Occu.: Agri.,

Both R/o Harivitthal Nagar, Jalgaon,

..APPLICANTS

VERSUS

1. State of Maharashtra

2. Sandeep Ashok Yashod
Age: 30 years, Occu.: Labour,
R/o Harivitthal Nagar,
Near Ambedkar Statue, Jalgaon.

..RESPONDENTS

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Mr. M.R. Bhokariker, Advocate for applicantS in APPLN/3982/17.

Mr. N.S. Ghanekar, Advocate for applicants in APPLN/4222/17.

Mr. A.S. Shinde, A.P.P. for respondent no.1 – State in both applications.

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CORAM : V.L. ACHLIYA, J.

DATED : 09th OCTOBER, 2017

ORDER :

1. The applicants have filed these applications under Section 439 of the Code of Criminal Procedure seeking bail in offences registered under Sections 143, 147, 148, 149, 307, 452, 324, 323, 504, 506 of the Indian Penal Code, under Sections 3(1)(r)(s), 3(2)(5), 5(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, under Sections 3/25 and 4/25 of the Indian Arms Act and under Sections 37/1 and 135 of the Maharashtra Police Act 1961 vide C.R. No. 21 of 2017 with Ramanand Nagar Police Station, Jalgaon.

2. Heard the learned Counsel for the applicants and the learned A.P.P. for State. Perused the copy of the charge-sheet filed against the applicants.

3. The learned Counsel for the applicants submit that after the investigation, charge-sheet is filed against nine accused. Out of those nine accused, four are released on bail by the Sessions Court. One of the accused is released on bail by this Court. Present applications are filed by remaining four accused whose applications for bail were rejected by the Sessions Court. By referring the F.I.R. and the evidence gathered by the prosecution during the course of the investigation, the learned Counsel representing the applicants strenuously contended that on the face of material gathered during the course of investigation, no offence under Section 307 of the Indian Penal Code as well as under Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 attracted against the applicants. It is contended that the informant was referred for medical examination on 12th February, 2017 i.e. the date on which the alleged incident was occurred. On conducting medical examination, the Medical Officer has found simple injuries such as contusion on back, nasal bleed with fluid normal, black eye (left), abrasion on both elbow and abrasion on both knee. One other person namely Akash More also sustained injury in that incident. On his examination, he was found to have sustained abrasion over left periorbital region.

4. In the background of injuries sustained by informant and injured, the learned Counsel for the applicants submit that none of the injuries caused can be termed as grievous or on vital part of body so as to attract the offence punishable under Section 307 of the Indian Penal Code. So far as offences under Sections 3(1)(r)(s), 3(2)(5), 5(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are concerned, the learned Counsel pointed out though the informant and the injured witness have stated that Pramod Ingale - Accused No.1 and Kailash Hatkar - Accused No.2 gave abuses in the name of their caste but in the charge-sheet, the prosecution has not mentioned the caste of the accused. So also it is not stated that the assault was made with intention to harass and humiliate informant on account of caste bias. In this background, the learned Counsel submits that as the investigation is concluded and the other accused are already enlarged on bail. The co-accuse – Bunt @ Sagar Raj Koli also granted bail by order dated 14th July, 2017 passed in Criminal Application No. 2720 of 2017. It is contended that on the ground of parity the applicants deserve to be released on bail. The learned Counsel for the applicants submit that the applicants are ready and willing to abide by any conditions, which may be imposed in the event of their release on bail. It is further submitted that Accused No.1 - Pramod Ingale and Accused No.2 - Kailash Hatkar

undertake not to enter in local limits of Jalgaon city, except for attending the Court proceeding.

5. On the other hand, the learned A.P.P. opposed the application with contentions that there is sufficient evidence to attract the offences for which the applicants are charge-sheeted. He submits that Accused No.2 – Kailash Hatkar is a habitual offender and large number of criminal cases are lying registered against him. Similarly, one case is also lying registered against Accused No.1. He submits that in the event of their release, there is every likelihood that they may tamper with the prosecution witnesses. So also they may abscond if released on bail and may commit similar types of offences.

6. Having appreciated the submissions advanced in the light of evidence gathered by prosecution to charge sheet them for offence under Sections 143, 147, 148, 149, 307, 452, 324, 323, 504, 506 of the Indian Penal Code, under Sections 3(1)(r)(s), 3(2)(5), 5(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, under Sections 3/25 and 4/25 of the Indian Arms Act and under Sections 37/1 and 135 of the Maharashtra Police Act 1961, I am of the view, case is made out to enlarge them on bail. The investigation is completed.

Charge-sheet already filed against them. Out of nine accuse, four are already released on bail by Sessions Court as well as this Court. There is no justifiable reason to deny bail to the applicants. On the ground of parity, the applicants deserve to be enlarged on bail. The injuries as noted above prima facie not appears to be grievous. I am therefore inclined to enlarge them on bail subject to certain conditions. Hence the following order :-

ORDER

(I) Applicants be released on bail on each of them furnishing bail bonds in the sum of Rs.25,000/- with one surety in the like amount on following conditions :-

(i) Accused No.1 – Pramod Ingale and Accused No.2 – Kailash Hatkar shall not enter into the city of Jalgaon till conclusion of the trial, except for attending the Court proceedings in connection with this case as well as other crimes registered against them.

(ii) The applicants shall not contact the complainant and other witnesses and indulge into any act amounting to tampering of prosecution witness.

(iii) Accused No.1 - Pramod Ingale and Accused No.2 - Kailash Hatkar shall inform to Police Inspector,

Ramanand Nagar Police Station, Jalgaon, their place of residence.

(iv) The applicants shall attend the Ramanand Police Station, Jalgaon on last Sunday of every month in between 10 a.m. to 11 a.m. to record their appearance till conclusion of trial.

(II) It is clarified that the observations made as above are made for the limited purpose of deciding the present application and same shall not be treated as observation made as to merit of the case and same shall not be used for any other purpose.

(III) The criminal applications stand disposed off in above terms.

(V. L. ACHLIYA, J.)

SSD