

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.531 OF 2017

1	Shri Manohar Dattatray Humbe		
2	Shri Santosh Tukaram Nimbalkar		Applicants
	vs.		
	State of Maharashtra		Respondent

Mr. Abhijit P. Kulkarni for the Applicants.
Mr. S.S. Pednekar, APP for the Respondent-State.

CORAM: MRS.MRIDULA BHATKAR J.

DATE : March 22, 2017

P. C. :

This Application is moved for bail under Section 439 of Code of Criminal Procedure. The Applicants-accused are prosecuted for the charges under Sections 133, 143, 149, 147, 148, 149, 307, 323, 324, 326 of Indian Penal Code and under Sections 2, 4 and 25 of Arms Act and Section 135 of Mumbai Police Act at C.R. No.4/2017 with Bhigwan Police Station, Pune Rural.

2 It is the case of the prosecution that the Applicant-
accused along with their friend when was proceeding on a motor cycle
on 14.01.2017 at around 6 p.m., three to four cars suddenly came

there and ten to fifteen persons alighted from the vehicles. Earlier the complainant had quarrel with Nitin Kadam. They all were armed with weapons. Mahesh Jagtap assaulted him with sword. Yogesh @ Pappu Khartode assaulted him with sword on his back. One Santosh Nimbalkar – applicant-accused No.2 assaulted him with fist and kick blows. Nitin Kadam assaulted him with wooden rod, Applicant-accused No.1- Manohar Humbe pelted stones on him. However, he could escape after jumping the compound wall and ran away. He was taken to hospital for treatment and thereafter he gave information to the police. Applicant-accused No.1-Manohar and Applicant-accused No.2-Santosh both were arrested on next day i.e. 15.01.2017. They are in the prison. Hence, this Bail Application.

3 The learned counsel for the Applicants-accused has submitted that the Applicants-accused were not armed with weapon, but as per the complaint one Applicant No.1 pelted stones at him and Applicant No.2 assaulted the complainant with first blows and kicks. He submitted that both the Applicants-accused are innocent and they do not have criminal antecedents and they are inside since last two and half months and, therefore, be granted bail.

4 The learned Prosecutor while opposing the Bail Application, relied on the complaints and other statements of the eye witnesses and also relied on injury certificate. He submitted that the Applicants-accused were present and have participated in the assault and it is the case of unlawful assembly that they, therefore, are not to be granted.

5 Perused the FIR. Perused the statements and injury certificate. The injury certificate discloses that he had suffered multiple clw over left hand fingers by sharp and cutting object. There is also another injury certificate of Yuvraj Sutar. However, he had not sustained any external injury out of assault. On query about criminal antecedents of the Applicants-accused, the learned Prosecutor informs that there are no criminal antecedents against the Applicants-accused.

6 Considering the facts of the case and the role attributed to the Applicants-accused and injuries sustained to the complainant, this Bail Application is allowed. Hence, the following order:

ORDER

- (a) The Applicants-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees twenty five thousand only) each with one or two solvent sureties in the like amount.
- (b) The Applicants-accused shall not tamper with the evidence or pressurise the complainant or the witnesses.
- (c) The Applicant-accused shall not indulge into any criminal activity and shall attend the Police Station on every Saturday between 11 am to 1 pm till filing of the charge-sheet or till 24.04.2017 whichever is earlier.
- (d) The Applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer along with documentary proof of his address.
- (e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

(MRIDULA BHATKAR, J.)