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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.568 OF 2017

1.	Baban @Babya Sheshrao Bachhav	
2.	Vilas @ Ghama Vinayak Bachhav	
3.	Vijay Narayan Bachhav	
4.	Manoj @Balu Nilkanth Bachhav	...Applicants
	Versus	
	The State of Maharashtra	...Respondent

Mr.A.U.Nikam, i/b Mr.Aashish Satpute, for the Applicants.

Mr.S. H. Yadav, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 5th JULY, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicants seek their enlargement on bail in connection with C.R.No.178 of 2016 registered with the Nandgaon Police Station, Nashik, for the alleged offences punishable under Sections 307, 341, 323, 143, 147, 148, 149 of the Indian Penal Code.

3. Learned Counsel for the applicants states that the complainant – Sahebrao Sonawane i.e. father of the injured – Eknath Sonawane is not an eye-witness to the incident of assault. He submitted that the entire Bachhav family has been falsely implicated in the said case. He submitted that although, Manik Bachhav is alleged to have been present at the spot, Manik was enlarged on bail by the learned Additional Sessions Judge, Malegaon, primarily on the ground, that Manik was admitted in the hospital at the relevant time. He submitted that even otherwise, the applicants are alleged to have assaulted the deceased with a wooden stick. He submitted that the allegations are as against Kailash Bachhav, who is alleged to have assaulted Eknath Sonawane with a koyta and Dilip Bachhav, who is also alleged to have assaulted the deceased with a koyta. He submitted that although, there is an antecedent, qua the applicant nos.1 and 2, the same pertains to an incident which has taken place during the Ganpati Festival, in which around 50 accused were involved.

4. Learned APP opposed the application. He submitted that applicant nos. 1 and 2 have antecedents and that there was a case under Section 307 of the Indian Penal Code, which was filed in the year 2015,

against them.

5. Perused the papers. The incident has taken place on 27th September, 2016. It is alleged by the injured – Eknath Sonawane, that on the day of the incident, he was going to his old house and that when he reached Jalpati Chowk, on his vehicle, all the 9 accused came to the spot and blocked his way. He has alleged that Shivaji Bachhav, Manik Bachhav, and Kailash Bachhav, were armed with koytas and that the rest were armed with sticks. He has stated that when he was sitting on his motorcycle, Kailash Bachhav, came from behind and assaulted him with a koyta and thereafter Dilip Bachhav, also assaulted him with a koyta on his head, after which he fell down and became unconscious. The statement of the eye-witness i.e Ashok Baviskar shows, that when he heard hue and cry, he went out of the house and saw that all the 6 accused were armed with sticks and that they were assaulting Eknath. The said witness has named only applicant nos.1 and 2 and not applicant nos.3 and 4. He has stated that after the six accused including applicant nos.1 and 2 assaulted Eknath with wooden sticks and left the spot, Kailash Bachhav came at the spot and started assaulted Eknath mercilessly with a koyta. He has stated that due to

the assault, Eknath became unconscious and was taken to the hospital. The injury certificate of Eknath shows that he has received grievous injuries including amputation of some of the fingers. As far as the applicants are concerned, the injured – Eknath has named all the applicants, however, the eye-witness – Ashok Baviskar has named only applicant nos.1 and 2. A perusal of the statement of the injured and eye witness show, that the accused were armed with wooden sticks and that it was Kailash Bachhav and Dilip Bachhav who assaulted the deceased with a koyta on his person. No doubt, there are antecedents, against applicant nos.1 and 2, but the said case pertains to an incident which took place during the Ganpati Festival in 2015, in which about 50 persons were involved. Considering the antecedents, appropriate conditions can be imposed on the said applicants i.e applicant nos.1 and 2. Applicant nos. 3 and 4 have no antecedents. The applicants have been in custody since October, 2016. Investigation is complete and charge- sheet is filed.

6. Considering the aforesaid, the application is allowed and the applicants are enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount;
- ii) The Applicants shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant Nos. 1 and 2 shall not enter the jurisdiction of Nandgaon Police Station, Nashik, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);
- v) The Applicants shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;

- vi) The Applicants shall co-operate in the conduct of the trial;
- vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicants, in the Registry of the trial Court, within two week's after their release;
- viii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicants' bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)