

2 It is the case of the prosecution that one Ramesh Rajesh Chavan initially lodged a report at Ulhasnagar Police Station alleging therein that on 15 August, 2014 he along with others were at Ulhasnagar Railway Station as they were to travel from Kalyan to Tadur, Hyderabad. They were seated in a queue. At about 3.30 a.m. four persons had approached them, abused them, brandished knife, chased them and then one of the four persons had stabbed Virendra Rathod on his stomach and that said person had assaulted Rajesh on his knee. They initially rushed to the police station and were referred to Central Hospital. It was stated in the FIR that the assailants were aged about 25 to 30 years old.

3 In the course of investigation on 22 August, 2014 the applicant Vikas was arrested, on the basis of the statement of Appaji Mundhe recorded on 21 August, 2014. He had disclosed to the police that on 16 August, 2014 he has seen 7 to 8 persons running on the sky-walk. He was acquainted with accused Vikas. It is specifically alleged that Vikas had shown blood stained knife to the witness and had informed him that he has assaulted two persons, that Nilesh had informed Vikas that the witness is from their group. Thereafter they had all fled in the rickshaw driven by Nilesh. In fact Vikas branded knife towards witness in order to threaten him. The injured Virendra had succumbed to the injuries in the hospital on 17 August, 2014.

4 Learned advocate for the applicant has submitted that the test identification parade was not conducted as per the guidelines

contemplated in the Criminal Manual.

5 Learned advocate Mr Gole also submits that the witness had changed the timing of the incident. It is also stated that initially injured and the witness have stated that there were only four persons who had abused and assaulted them and in the supplementary statement they have stated that there were five persons who have attacked them only in order to attract Section 141 of Indian Penal Code. Learned advocate submits that the statements of the witnesses do not inspire confidence.

6 In the course of investigation it is revealed that in fact the injured, the deceased and his associates were seated at the railway station, they were in queue. They did not even know the persons and there were no reasons for the accused to have any enmity. At the same time it is specifically stated that all the 4/5 persons were under the influence of alcohol and have mounted assault upon unknown persons.

7 Learned advocate for the applicant in Criminal Application No.532 of 2016, has argued that assuming for the sake of argument that the applicant was in the company of the person who had in fact assaulted Virendra, it cannot be presumed that the applicant had knowledge that the said person was armed with knife, and therefore, he deserves to be enlarged on bail.

8 Taking into consideration the material collected in the course of investigation, the overact attributed to the applicants and the fact that they have been identified in the test identification parade, the applicants do not deserve to be enlarged on bail. The Court cannot be oblivious of the fact that innocent persons at the railway station, for no reason, were assaulted by the applicants while they were under the influence of alcohol. The witnesses had no axe to grind against the applicants and therefore false implication is ruled out. The role attributed to them is also corroborated. Hence, the applicants do not deserve to be enlarged on bail. The applications stand rejected.

9 The learned Sessions Judge shall not be influenced by the observations made in this order, at the time of trial. The learned Sessions Judge, shall not grant unwarranted adjournment to the prosecution and expedite the trial and decide the case.

(SMT SADHANA S. JADHAV, J.)