

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 693 OF 2017

1 Shri Mukund Kisan Bhagwat
2 Shri Sandip Devba Bhagwat
3 Shri Rajendra Baban Bhagwat Applicants

vs.

State of Maharashtra Respondent

**ALONG WITH
CRIMINAL BAIL APPLICATION No. 694 OF 2017**

1 Akshay Rajendra Bhagwat
2 Navnath Nandkumar Bhagwat Applicants

vs.

State of Maharashtra Respondent

Mr. Kuldeep Patil i/by Prahsant Subhash Hagare for the Applicants in both Bail Applications.

Mr. S.S. Pednekar, APP for the Respondent-State in both Bail Applications.

CORAM: MRS.MRIDULA BHATKAR J.

DATE : March 22, 2017

P. C. :

These two Applications are moved for bail under Section 439 of Code of Criminal Procedure. The Applicants-accused are facing the prosecution under Sections 307, 143, 147, 149, 109, 120 (B) of the Indian Penal Code in C.R. No. 272 of 2016 at Natepute Police Station, Tal. Malshiras, Dist. Solapur. The offence is registered at the instance of Babu Waman Bhagwat on 15.11.2016.

2 It is the case of the prosecution that the injured Satish Kisan Bhagwat is a cousin of complainant- Babu Waman Bhagwat. In the Grampanchayat election, the injured Satish did not vote for one Vaibhav K. Gite and, therefore, Vaibhav was holding grudge against Satish Bhagwat. On 8.11.2016, the son of Satish informed the complainant that his father was assaulted by the Applicant-accused Mukund Bhagwat, Sandip Bhagwat, Navnath Bhagwat, Akshay Bhagwat with fist and kick blows. The complainant therefore rushed to his brother. He found that his brother was assaulted by the Applicant-accused on his neck, near ears and on the back. So the

complaint was given to the police on the same day. On 9.11.2016 between 2 to 2.30 pm, Akash, son of the injured again informed him that his father was unconscious and there are no movements of the body and was shifted to Baramati Hospital for treatment. The injured was treated for two days at Baramati and thereafter he was directed to be taken to the hospital in Pune for better treatment. It is the case of the complainant that the Doctors from Aditya Birla Hospital, diagnosed that there was edema to his brain and surgery was necessary and on 12.11.2016, the Neuro Surgeon operated on him and he was shifted to ICU. On 15.11.2016, Bapu Bhagwat approached the police and the office was registered. All the Applicants-accused were arrested on 17.11.2016. Hence, these Applications for bail.

3 The learned counsel for the Applicant-accused has submitted that no weapon was used at the time of assault. He relied on the injury certificate of Satish Bhagwat. He submitted that the injuries sustained to Satish were of simple nature. The learned counsel argued that Satish in fact was suffering from other ailments and due to the assault, it was aggravated and, therefore, he was required to be operated. He further

submitted that there was no intention to kill him or cause serious injury to the injured. He further submitted that the Applicant-accused was admitted for 2 to 3 days and then he was given treatment and thereafter was operated. He further submitted that the Applicants-accused Akashay Bhagwat and Navnath Bhagwat are studying in College and have to appear for their semester examination which is going to start in the next week. He further submitted that the Applicants-accused have no antecedents.

4 The learned Public Prosecutor while opposing the Applications relied upon the police report. He submitted that the physical condition of the injured is still critical and, therefore, his statement could not be recorded because the patient has slurred speech which is not understandable and he is not in a condition to give clear statement. He further submitted that the names of the Applicants-accused are mentioned in the complaint.

5 Perused the FIR. Also perused the statements of the eye-witnesses which show that no weapon was used at the time of the assault. The Application-accused, as per the case of the prosecution,

were assaulted with fist and kick blows. Injury certificate discloses that all the injuries were simple in nature. The other two Applicants-accused Akshay & Navnath have to appear for the examination on 24.03.2017. The Applicants-accused have no criminal antecedents. The Applicants-accused are in prison since 17.11.2016 and charge-sheet is filed.

6 Considering all these circumstances, Both the Bail Applications are allowed. Accordingly, the following order is passed :

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 on all the Court dates, without fail.

(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 alongwith 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.

Parties to act on the basis of an authenticated copy of this order.

(MRIDULA BHATKAR, J.)