IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1307 OF 2017

1. Sameer Haribhau Khalate,
2. Aniket Anil Nimbalkar ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. J. Shekhar i/b J. Shekhar & Co. for the Applicants

Ms. S. S. Kaushik, A.P.P for the Respondent-State

API Mr. Sandipan Waman Vir from Vadgaon Nimbalkar Police Station, Baramati, Pune (Rural) is present.

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 11th 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. 187 of 2017 registered with the Vadgaon Nimbalkar Police Station, Baramati, Pune, for the alleged offences punishable under Sections 307, 353, 341, 143, 147, 323, 504, 506 and 379 of the Indian Penal Code.

3. Learned Counsel for the applicants submits that the applicants have been falsely implicated in the said case and the allegations as against the applicants are baseless. He submits that the applicant No. 2 is only alleged to be present on the tractor and is not alleged to have uttered a single sentence. He submits that the applicant No. 2 cannot be attributed with any knowledge that the sand which was being transported, was illegal. He further submitted that the allegation that the applicant No. 1 attempted to drive the tractor on the victim, is also baseless and that there are no injuries to the complainant.

4. Learned A.P.P opposed the application. She submitted that the complainant, a Talathi of village Korhale was assaulted brutally by the applicants and others. She submitted that the complainant was only performing his duty and that the applicant obstructed him from performing his duty and assaulted him. She submitted that there are other eye-witnesses to corroborate the complainant's statement. She has also tendered a copy of the injury certificate of the complainant. She further submits that investigation is in progress and that the applicants are likely to tamper with the evidence.

5. Perused the papers. The incident has taken place on 24th May, 2017. According to the complainant-Ankush Bhagat, Talathi of Village Korhale, Baramati, at about 6:00 p.m., he along with Sarpanch Shri Tanaji Jadhav, President of Tantamukt Samiti-Shri Balasaheb Ghode, etc. had gone to Thopatewadi, to see the position of Gat No. 120. According to the complainant, at about 7:00 p.m., Shri Udaysing Kadam informed him on phone, that a truck trolly was carrying illegal sand through Late. He has stated that they immediately proceeded towards Late, to take action. He has further stated that he went to Late alongwith Kotwal – Balasaheb Khomne. According to the complainant, suddenly, he heard a truck coming near the Government Hospital. He has stated that he found a truck bearing No. MH-42-6362 near the Government Hospital and that behind the truck, there was a dumping trolly containing sand. He has alleged that when he questioned the applicant No. 2-Aniket Nimbalkar whether he had the requisite license to carry the sand, the applicant No. 2 ran away from the said spot. He has further stated that he sat at the driver's seat and started taking the said truck alongwith the trolly from Late to Kohale. He has stated that when he was driving the said truck, at about 8:00 p.m. near

Bajrangwadi, Ghodevasti, suddenly applicant No. 1 came in his Indica car and the other accused including applicant No. 2-Aniket Nimbalkar came on motorcycles. The said persons came and stopped ahead of the truck and did not let the truck proceed. He has stated that the applicant No. 2 pulled him down from the steering/driver's seat and started assaulting him with fist and kick blows. He has further alleged that the said accused threw stones on his person. He has further alleged that when he started shouting, Shivaji Korde came to rescue him. According to the complainant, the applicant No. 1 disclosed that the complainant had earlier caught two tractors containing sand and that he should not be left alive and attempted to drive the said truck on his person. He has stated that in the nick of time, Shivaji Korde pulled him aside, pursuant to which, he was saved. It is stated that thereafter the applicant No. 1 took the truck along with him and that the accused followed, after abusing and threatening the complainant.

6. The complainant is a Talathi of Village Kohale. The applicants have obstructed him while performing his official duty. The complainant has specifically named the applicants. There are other eye-witnesses who have also named the applicants. The injury certificate of the complainant

shows that he has suffered 5 injuries. Although the injuries are simple in nature, some of the injuries are on vital parts of the body. The investigation is in progress and hence, the possibility of the applicants tampering with the evidence, cannot be ruled out. Hence, the application is rejected.

7. The applicants are, however, granted liberty to move a fresh application after filing of the charge-sheet.

8. It is made clear that the observations made herein are *prima facie*, and if an application is filed after filing of the charge-sheet, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.