

Anand

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

BAIL APPLICATION NO.1388 OF 2017

1. Shivraj Nandkumar Dombé .Applicants
2. Sarang Sanjay Tole

Vs.

The State of Maharashtra .Respondent

Mr.S.S.Shah, Advocate, for the Applicants
Mrs.R.Ambekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C.R.No.571 of 2016 registered with the Pandharpur City Police Station, for the alleged offences punishable under Sections 307, 143, 147, 148, 149 & 506 of the Indian Penal Code.

3. Learned counsel for the Applicants

submits that due to political rivalry, a false complaint has been lodged as against the Applicants. He submitted that co-accused – Nilraj Dombé was an Ex-Municipal Councilor and that his wife is presently the Municipal Councilor. He submitted that every time, on the eve of elections, false cases are lodged as against the Applicants and others. He submitted that all the injuries caused are simple in nature. He further submitted that the whole incident has been concocted.

4. Learned APP opposes the Application. She submitted that the Applicant No.1 has assaulted the Complainant with a gupti, resulting in the injured sustaining grievous injuries. She submitted that as far as the Applicant No.2 is concerned, he held the Complainant's hands, pursuant to which, the Complainant was assaulted.

5. Perused the papers. The incident has taken place on 28.08.2016. As far as the Applicant No.1 is concerned, he is alleged to have assaulted the Complainant with a gupti in his abdomen and the Applicant No.2 is alleged to have held the Complainant's hands. The other co-accused – Yuvraj and Nilraj are alleged to have assaulted the Complainant with sticks. The Injury Certificate of the Complainant shows, that he has sustained a grievous injury on the right chest below nipple. The size of the injury is stated to be 4 cm x 2 cm. There are eye witnesses to the said incident.

6. Considering the overt act of the Applicant No.1, this is not a fit case to enlarge him on bail, accordingly, his prayer for bail is rejected. Accordingly, the Application is partly allowed. As far as the Applicant No.2 is concerned, admittedly, there was no animosity between him and the Complainant. The Applicant

No.2 is stated to have been working as driver with the Applicants' family. Considering the role of the Applicant No.2, the Applicant No.2 is enlarged on bail on the following terms & conditions:-

O R D E R

- (i) The Applicant No.2 be enlarged on bail, on executing PR Bond in the sum of **Rs.15,000/-** with one or two sureties in the like amount;
- (ii) The Applicant No.2 shall report to the investigating officer of the concerned police station on the **1st Monday of every month** between **10.00 a.m. and 11.00 a.m.** till the conclusion of trial;
- (iii) The Applicant No.2 shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant No.2 shall inform his 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicant No.2 to cooperate with the conduct of the trial and shall attend the trial Court, on every date;

(vi) The Applicant No.2 shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant No.2's bail.

7. The Application is partly allowed in the aforesaid terms and is accordingly disposed of. However, the trial of the Applicants is expedited.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)