

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1748 OF 2016

1. Dinesh s/o Janardhan GhanghavApplicants
2. Brijesh s/o Dinesh Ghanghav

V/s.

The State of MaharashtraRespondent

Mr. Vilas Kadam Advocate for Applicant.
Ms. P. P. Shinde APP for the State.
Mr. K. G. Ghosalkar, PSI, Kasara Police Station,
Thane, (Gramin).

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 31st JANUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicants herein are arrested on 09/11/2015 in crime no. 89 of 2015 registered at Kasara Police Station, Shahpur for offence punishable under sections 147, 148, 341, 326, 307, 504, 506 r/w section 149 of the Indian Penal Code.

2) It is the case of the prosecution that on 09/11/2015, Nanda Gangurde lodged a report at the police station alleging therein that her son Akshay had

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lost his cellphone. Her nephew Pratik suspected that Akshay had stolen the cellphone and therefore, there were quarrels between Akshay and Pratik. On 08/11/2015, at about 8.00 p.m., Akshay had been to the saloon. While he was returning on his way back home, Pratik had obstructed and questioned Akshay as to why he is being labelled as a thief. There was verbal altercation between Pratik and Akshay. Akshay returned home and informed his father about the same. According to the first informant, at that juncture, Avinash Ghanghav, Dinesh Ghanghav Brijesh Ghangav i.e. present applicants, Sidhesh Ghanghav, Diptesh Ghanghav, Rajesh Ghanghav Prateek Ghanghav, Rajendra Ghanghav and Ramdas Ghanghav came home. They were armed with weapons like chopper and iron bars. They mounted assault upon Akshay and caused injuries to him. On the basis of the said report, crime no. 89 of 2015 was registered.

3) On 29/11/2015, supplementary statement of the complainant was recorded as she was an eye witness to the incident. She has specifically stated that Avinash Ghanghav was armed with a sharp edged weapon like a knife and had assaulted Akshay on his stomach and elbows and Pratik had assaulted Akshay on his head with an iron rod. It is specifically stated that Avinash and

Pratik had mounted assault upon Akshay and when complainant and her husband intervened to rescue their son, present applicants had abused them and had fled away from the spot. It is thus clear that Akshay had sustained injuries at the hands of Avinash and Pratik.

4) The co-accused Diptesh Ghanghav and Rajesh Ghanghav have been enlarged on bail by this Court (Coram: P. N. Deshmukh, J.) vide order dated 19/07/2016 and the order has attained finality.

5) The learned counsel for the applicant rightly submits that by virtue of doctrine of parity, present applicants would also be entitled to be enlarged on bail as they are not liable for injuries that were sustained by Akshay. Moreover, applicants have been in custody for more than 14 months. Investigation is completed and charge-sheet is filed and hence, they deserve to be enlarged on bail.

6) However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more solvent sureties in the like amount.
- (iii) Applicants shall not reside in Milind Nagar, Kasara till the conclusion of trial.
- (iv) Applicants shall attend Kasara Police Station on first Sunday of each month between 10.00 a.m. to 12.00 noon till the framing of charge.
- (v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)