

Anand

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

CRIMINAL APPLICATION NO.645 OF 2015

Dattatraya Tatoba Pandhare

.Applicant

Vs.

1. The State of Maharashtra
2. Bhagwan Namdev Pandhare

.Respondents

Mr.M.A.Patil i/b. Mrs.S.Y.Lengare, Advocate, for the Applicant
Mr.S.S.Hulke, APP, for the Respondent No.1 – State
Mr.M.A.Patil, Advocate, for the Respondent No.2

CORAM : REVATI MOHITE DERE, J.

DATE : 14.07.2017

P.C.

. By this Application, the Applicant (Original Complainant) seeks cancellation of the bail granted to Respondent No.2, by the learned Additional Sessions Judge, Pandharpur vide Order dated 13.08.2015 in Cri.M.A.No.316 of 2015.

2. Learned counsel for the Applicant submits that the learned Judge has granted bail to Respondent No.2, on the ground of parity, when in fact, there was no parity with the other co-accused, who were enlarged on bail by this Court. He submits that a perusal of the FIR shows the complicity of the Respondent No.2 – accused.

3. Learned counsel for the Respondent No.2 opposes the Application. He submits that there is nothing on record to show, that after the Respondent No.2 was enlarged on bail by the learned Additional Sessions Judge, Pandharpur vide Order dated 13.08.2015, the Respondent No.2 has breached any of the conditions of bail.

4. Perused the papers, including the Order dated 13.08.2015 passed by the learned Additional Sessions Judge, Pandharpur by which the Respondent No.2 was enlarged on bail. The incident has taken place on 19.07.2014 at 1.00 p.m. in the land of the Complainant i. e. Gat No.68 Udanwadi, Sangola. It is alleged by the Complainant that the accused persons came on his land and that they were armed with iron pipes and gun and that the accused objected to the Complainant leveling his land. It is alleged that Kakasaheb assaulted the Complainant with an iron pipe on his head and legs and that the Vishnu assaulted Bhau Jaywant with an iron pipe on his legs and right arm. It appears that the Complainant – Dattatraya has sustained four simple injuries. Jaywant's Certificate is not on record. Vishnu is alleged to have assaulted the Complainant. As far as Arjun is concerned, he is alleged to have assaulted by Namdev and other co-accused. There are four simple injuries and one grievous injury on the left tibia. It is also not in dispute,

that after the said Order dated 13.08.2015 was passed, no untoward incident has been reported nor is there any allegation that the Respondent No.2 breached any of the conditions imposed on them, by the learned Additional Sessions Judge, Pandharpur vide Order dated 13.08.2015. It appears that although the Respondent No.2 – Bhagwan Pandhare was carrying an iron pipe, he is not alleged to have assaulted any of the injured. The Order enlarging the Respondent No.2 cannot be said to be perverse or unsustainable, keeping in mind the role ascribed to the Respondent No.2 – Bhagwan.

5. Considering the aforesaid, no ground is made out for cancelling the bail, granted to Respondent No.2, by the learned Additional Sessions Judge, Pandharpur vide Order dated 13.08.2015 passed in Cri.M.A.No.316 of 2015.

6. Accordingly, the Application is dismissed.

(REVATI MOHITE DERE, J.)