

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

BAIL APPLICATION NO.2539 OF 2016

Ganesh @ Jadu Popat Chavan & Anr. Applicants

versus

State of Maharashtra ... Respondent

Mr.Rajaram V. Bansode, Advocate for the Applicant.

Mr.S.S. Hulke, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 01st FEBRUARY, 2017.

P.C. :

1. This application is moved for bail by the applicants/accused. The applicants/accused are prosecuted for the offences punishable under sections 143, 147, 148, 149, 307, 323, 452, 504, 506 of the Indian Penal Code in C.R.No.172/16 of Phaltan Rural Police Station. One Yogesh Babanrao Ghanwat gave information of assault to police on 20/05/2016.

2. It is the case of prosecution that on 20/05/2016 at around 08.00 p.m. both the applicants/accused alongwith one

Sachin and other two persons arrived and they suddenly started pelting stone at the house. Therefore Yogesh, the injured and his paternal aunt went towards them and asked reason of pelting stone. At that time, Sachin Chavan phoned somebody and asked to bring sickle and sword and also said that he would not leave them alive. He also said that why he gave complaint against Nandu Nale about excavating sand. They manhandled paternal aunt of the complainant. After hearing shouts, other family members came out and therefore these four persons went away. Nilesh Telkhade, a friend of the complainant who arrived there, advised him to give complaint to police station. However, he waited in the house and at around 09.00 p.m. again Sachin Chavan, Santu Pawar, present applicant/accused other 5-6 unknown persons armed with weapons arrived there. They pulled complainant out of the house. As per the case of prosecution applicant/accused No.1 was holding sword. The applicant/accused No.2 was having sickle in his hand and accused Sachin Chavan was armed with Sword. Other two persons were armed with iron pipes. Sachin told him that they

would not keep him alive though Nandu Nale is in the prison. Thereafter the co-accused Sachin assaulted him with iron pipe and the others two pushed, him assaulted with kicks and fist blows and stones. Thereafter, when the family members of the complainant arrived there, they ran away. Thereafter offence was registered and the applicants/accused were arrested on 25/05/2016. Since then they are in the prison. Hence this bail application.

3. The learned counsel for the applicants has submitted that role attributed to the applicants/accused shows that they did not use any weapon, but they assaulted the complainant with kicks and blows and stones. The learned counsel further submitted that the applicant/accused No.1 is 19 years old and accused No.2 is 20 years old. They do not have criminal record. It is further submitted that, Sachin was the main perpetrator and not the applicant/accused.

4. The learned prosecutor opposed the bail application. He submitted that the applicants/accused are the residents of the place where the complainant resides.

5. Perused the FIR. Perused the statements of other witnesses and the papers and the injury certificate. The injury certificate disclose that Yogesh Ghanwat had sustained total 8 injuries, out of which one injury is CLW with shaft of tibia. From the complaint it can be gathered that it caused due to blunt portion of the sword. As per the complaint, the applicant/accused No.1 was holding sword. The applicant/accused No.2 was holding sickle. However, they did not assault the complainant with those weapons, but they assaulted him with kicks and fist blows and the stones. After going through the injuries it appears prima facie that the applicants/accused though armed with weapons, they did not use the weapons. I consider the submissions made by the learned counsel for the applicants/accused and also the learned prosecutor. The fact that the applicants/accused do not have any criminal record, is taken into account. I allow this application with following terms and conditions :

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- with one or two solvent sureties in the like amount.
- (iii) The applicant/accused shall attend all the Court dates.
- (iv) The applicant/accused shall not tamper with the evidence or pressurize or threaten the complainant and other witnesses or family members of the witnesses and the complainant.
- (v) The applicant/accused shall not have any association with other co-accused.

6. . The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)