

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

BAIL APPLICATION NO.1698 OF 2018

Rajendra Pandurang Bhatale & Ors. Applicants
Vs.
The State of Maharashtra Respondent

**ALONGWITH
CRIMINAL APPLICATION NO.898 OF 2018**

Asha Sunil Baddare Intervener/
Applicant

In the matter of :

Sagar Prabhakar Bhatale & Ors. ... Applicants
Vs.
The State of Maharashtra Respondent

Mr. A.P. Mundargi, Senior Counsel i/by Mr. Abhishek Yende for the Applicants.

Mr. Satyavrut Joshi for Intervener.

Mr. N.B. Patil, APP for the State.

Mr. B.D. Patil, Police Naik, Radhanagari Police Station present.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 1st August, 2018

P.C.:

1 Heard the learned counsel for the applicants and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicants herein are arrested on 7th April 2018 in Crime No.140 of 2017, registered at Radhanagari Police Station, Kolhapur for the offences punishable under Sections 307, 143, 147, 148, 149, 326, 325, 323, 506 read with 34 of Indian Penal Code and under Section 25 (1)(c) of Indian Arms Act.

3 It is the case of the prosecution that on 17th October 2017 the elections of Gram Panchayat of Radhanagari were held. There were two panels. One was Rajashree Shahu Shahar Vikas Aghadi and the other panel was Lokseva Gramvikas Aghadi. The applicants were the members of Lokseva Aghadi. 15 members of Rajashree Shahu Shahar Vikas Aghadi had got elected and one member of Lokseva Gramvikas Aghadi was elected.

4 On 18th October 2017, Asha Sunil Badadare wife of Sunil Badadare lodged a report at the police station alleging therein that her husband, who happens to be Member of Rajashree Shahu Shahar Vikas Aghadi had left the house for participating in the victory procession of the Returned Candidates. That when they were passing Radhanagari, her husband Sunil was assaulted brutally by the applicants. That one Ambulance had come in front of her house and she had seen Sunil in injured condition. She had rushed to Radhanagari Government Hospital and upon enquiry, she had learnt from her husband that the applicants had assaulted him with swords when the procession was passing through Radhanagari. On the basis of the said report, Crime No. 140 of 2017 is registered.

5 It is pertinent to note that on the same day, Janardan Dattu Patil, who happens to be a Member of Lokseva Gramvikas Aghadi had lodged a report at the police station alleging therein that when the victory procession was passing from the front of their house, the Members dancing in the procession had become

aggressive and they had started pelting stones at their house. They had also damaged the vehicles parked in front of their house. They had thrown stones on their roof. When Aadesh Kadam had tried to intervene and pacify the matter, he was also assaulted and had sustained injuries. The complainant, Janardan Dattu Patil had taken pictures of the said victory procession on his cell-phone. Similarly one Suresh Balwant Savane had also lodged a report at the police station alleging therein that on 17th October 2017, when the victory procession was passing from Radhanagari, the Members of the elected panel had assaulted him with sticks on his hands. There are cross-complaints in respect of the said incident.

6 Perused the papers of investigation, more particularly the injury certificate issued by Rural Hospital, Radhanagari. It shows that the injured Sunil Dattatray Badadare has received injuries such as swelling on left fore-arm, C.L.W. on his left forearm, C.L.W. in between right thumb and index finger and C.L.W. on his occipital parietal region. The Doctors had suspected fracture of left arm and had described the said injuries as grievous injuries. The certificate

issued by North Star Super Speciality Hospital would show that the injured Sunil was admitted in the hospital at 10.35 pm. on 17th October 2017 and was treated as an O.P.D. patient. It shows that the injured Sunil had sustained five injuries. Out of which, there was partial traumatic amputation of right thumb, mid shaft fracture, and left ulna and grievous head injuries.

7 At this stage, learned counsel appearing for the complainant/ Intervener submits that injured Sunil was admitted in the Hospital on 17th October, 2017 and was discharged on 2nd November 2017. The investigation is completed and charge-sheet is filed. Learned counsel for the Intervener submits that the applicant Rajaram @ Rajendra Pandurang Bhatale was convicted for the offence punishable under Section 323 of Indian Penal Code in Regular Criminal Case No. 21 of 2002 vide judgment and order dated 4th July 2007 and that he has criminal antecedents. It is submitted that the applicant is charge-sheeted in Crime No. 129 of 2014, for the offences punishable under Sections 143, 147, 148, 149, 353, 323 and 506 of Indian Penal Code and 37(1), 135 of

Maharashtra Police Act, wherein 40 to 50 persons had mounted assault upon the Police. There are cross complaints in respect of the same incident.

8 Learned Senior Counsel submits that it would be necessary to appreciate the circumstances in which Sunil has got injured at the hands of the Members of Lokseva Aghadi. It is in these circumstances and for the above mentioned observations, the applicants deserve to be enlarged on bail. Learned Senior Counsel also submits that filing of the charge-sheet in the earlier case cannot be considered to be a criminal antecedents since the applicant was not the only Member of Morcha, which was taken to the police station for arrest of the accused persons alongwith 40 to 50 persons.

9 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iii) The applicants shall not reside at Huda, Taluka Radhanagari, District Kolhapur till 15th October 2018.
- iv) The Intervention Application is heard, allowed the disposed of.

(Smt. Sadhana S. Jadhav, J.)