

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

BAIL APPLICATION NO. 168 OF 2018

Shrishail Chandaram Gaikwad. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

WITH

BAIL APPLICATION NO. 211 OF 2018

Tirupati Sarjerao Chavan. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

WITH

BAIL APPLICATION NO. 299 OF 2018

Kamalakar Sudhakar Kamble. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Viresh V. Purwant, advocate for Applicants in BA 168/18 & 299/18.

Mr. Jaydeep D. Mane, advocate for applicant in BA 211/18.

Mr. N.B. Patil, APP for State in BA 168/18 & BA 299/18.

Mr. S.R. Agarkar, APP in BA 211/18.

Mr. K.K. Kamble, PSI, Sadar Bazar Police Station, Solapur.

CORAM : SMT.SADHANA S. JADHAV,J

DATE : FEBRUARY 14, 2018

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State.

2 These are applications under section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 2/1/2018 in Crime No. 2 of 2018 registered at Sadar Bazar Police Station for offence punishable under section 143, 147, 149, 427 and 307 of the Indian Penal Code and section 37(1)(3), 135 of the Maharashtra Police Act.

3 The applicant in Criminal Application No. 168 of 2018 happens to be the union leader of the employees of Municipal Corporation, Solapur. The applicants in Criminal Application Nos. 211/18 and 299/18 are the employees of Solapur Municipal Corporation in class IV category.

4 It is the case of the prosecution that class IV employees of the Solapur Municipal Corporation were not paid their salary for about 8 months and therefore, they had approached Union leader i.e. the applicant in Criminal Application No. 168 of 2017. He had assured them that he would adopt all means to see that they are paid their due salary. On 30/12/2017 the applicant Shrishail Gaikwad had communicated to the Commissioner of Municipal Corporation, Solapur that since employees are not paid their salary for 8 months, they would abstain from working and that they are on the verge of starvation. That one of the employee namely Atish Gaikwad had consumed poison and attempted to commit suicide since he has not been paid salary. He has requested Commissioner to pay the salary at the earliest or else they would be constrained to take coercive steps.

5 It appears that there was no response from the Commissioner. On 2/1/2018 the employees alongwith their leader-applicant Shrishail Gaikwad had gone to the office of the Commissioner. It is alleged by the prosecution that one of the employee was carrying a

canister containing kerosene. According to the prosecution, they had made attempt to set the Commissioner ablaze. The police machinery had accosted the applicant Shrishail Gaikwad. He was assaulted by the police as per the CCTV footage and taken into custody. Thereafter, the offence was registered against the present applicant.

6 The learned Counsel for the applicant placed implicit reliance upon the images captured in the CCTV footage installed at office of Commissioner, more particularly, in the office of PA of Commissioner. It is submitted that in fact, they wanted to have a communication with the Commissioner to request him to pay salary and they had only reached up to the desk of the PA of the Commissioner. Since the employees were frustrated, one of the them who is not applicant before this Court was carrying can of kerosene not for setting ablaze the Commissioner but immolate himself since he and his family were on the verge of starving.

7 The learned Counsel has placed reliance upon the CCTV footage and newspaper cutting to show that in fact the applicant Shrishail

Gaikwad was brutally assaulted by the police before he was taken into custody. That in fact, it was not necessary for 7 to 8 policemen to assault the applicant. The other employees had not intervened either to rescue applicant Shrishail Gaikwad or to retaliate against the police officer.

8 The learned APP submits that applicant Shrishail Gaikwad is having criminal antecedents and that there are several offences registered against him since year 2005. Upon perusal of the police record, it appears that most of the offences are for forming unlawful assembly.

9 The learned Counsel submits that he happens to be an union leader and some times to answer grievances of the employees/labour or the needy, he leads as agitation to Government offices and the offences are registered against him. One of the offence registered against the applicant is under section 306 of the Indian Penal Code at Sangli Police station. The learned Counsel upon instructions submits that the secretary of the labour union had misappropriated certain

amount. The applicant had insisted upon him to return the same to the persons to whom the amounts belong, he had committed suicide and the applicant is being prosecuted under section 306 of the Indian Penal Code.

10 As far as the applicant in Criminal Application No. 211 of 2018 is concerned, the learned Counsel for the applicant submits that he was a class IV employee of the Municipal Corporation of Solapur. He was on leave and on 2/1/2018 he was called for attending the work since the Corporation had taken cleanliness drive. He has joined his service on 2/1/2018. He had started agitation. He was not paid for 8 months. The moment he joined his place of service, he has been prosecuted and put in custody and the same is the case with the applicant in Criminal Application No. 299 of 2018. He is also a class IV employee of the Municipal Corporation, Solapur. These employees are not paid their salary from the exchequer of the Corporation or the State but are working on honorarium which was not paid to them for 8 months prior to the date of incident.

11 Taking into consideration the papers of investigation and the submissions advanced across the bar coupled with the role attributed to each of the applicants, this Court is of the opinion that the applicants deserved to be enlarged on bail.

12 However, the observations made hereinabove are prima facie and shall not be considered for the purpose of quashing of FIR or discharge application or at the time of trial.

13 Hence, the following order is passed :

ORDER

(i) The Criminal Bail Application No. 168 of 2018 is allowed.

(ii) The applicant in Criminal Bail Application No. 168 of 2018 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall not reside within the jurisdiction of Municipal Corporation, Solapur till filing of the charge-sheet.

(iv) The Criminal Application Nos. 211/2018 and 299/2018 are allowed.

(v) The applicants in Criminal Application Nos. 211/2018 and 299/2018 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- each and one or more sureties in the like amount.

(vi) The applicants shall not tamper with the evidence.

14 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)