

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

BAIL APPLICATION No. 890 OF 2018

Chandan Surendra Singh ...Applicant
Vs.
The State of Maharashtra ...Respondent

**WITH
BAIL APPLICATION No. 535 OF 2018**

Rohit Vitthal Gaware ...Applicant
Vs.
The State of Maharashtra ...Respondent

**WITH
CRIMINAL APPLICATION No. 208 OF 2018
IN
BAIL APPLICATION No. 535 OF 2018**

Mahesh Narayan Garule ...Applicant /Intervenor

In the matter between
Rohit Vitthal Gaware ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. V.B. Kasbe a/w. Mr. Sachin Deokar for Applicant
Mr. S.H. Yadav -APP
None for Intervenor
Mr. Shankar Awatade, PI, Nigdi Police Station, Pune

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: JUNE 14, 2018

P.C.

1. None present for intervenor. Heard the learned counsel for the Applicants and the learned APP for the State.

2. These are the applications filed under section 439 of the Criminal Procedure Code. The Applicants are arrested in Crime Registration No. 574 of 2017 registered at Nigadi Police Station for the offences punishable under section 120-B, 143, 147, 148, 149, 294, 323, 324, 341, 307, 504 r/w. 34 of the Indian Penal Code and under section 37(1) (3) r/w. 135 of the Bombay Police Act, 1951 and under section 3 and 4 r/w. 25 of the Arms Act, 1959.

3. It is the case of the prosecution that one Mahesh Garole and Kalidas Gade went to the house of Chandan Singh – present Applicant in respect of money transaction and at that time, there were some altercations between Mahesh, Kalidas and family members of the Applicant. It is alleged that Mahesh Garole had approached the police station to lodge a report about the same on 30th September, 2017 that one Tushar Hinge, who is not an applicant, along with 15 to 20 persons, came in four wheelers near the complainant and out of which, one Rohit Gaware abused the Complainant and one Arvind

Bhokare caught hold of the complainant and Tushar Hinge had tried to give a blow with sword on the head of the Complainant but the attempt had failed. Thereafter, one Chandan Singh put the revolver on the head of the Complainant but the same did not trigger. Thereafter, Tushar Hinge had thrown cement block on the head of the Complainant and, as such, the complainant sustained injury on his head. Thereafter they assaulted the complainant with fist and kick blows. Thereafter, he was taken to Yashwantrao Chavan Memorial Hospital, where he was examined at 8.45 p.m. The injuries are in the nature of blunt trauma on scrotum, abrasion on right knee, CLW frontal right 3 x .5 x.5 m, blunt trauma on stomach. Kalidas Gade, who was accompanying the Complainant had sustained abrasion on right elbow, blunt trauma on head, chest, abdomen of limb etc. It is pertinent to note that this is a case of cross complaints.

4. The station diary entries show that the police had attempted to record the statement of Mahesh but He had not signed the report scribed by the police. Despite being conscious and oriented he had not disclosed anything to the police. It is also submitted by the learned counsel for the Applicants that on 8th October, 2017, Mahesh Garule was discharged from the hospital and the report is lodged on 10th of October, 2017. Soon after, the cross report is lodged. The

applicants are arrested on the second day. It is submitted that there is no plausible explanation for an inordinate delay in lodging the FIR. Moreover, the first information is not corroborated by the injury certificate.

5. In view of the above mentioned facts and the submissions advanced across the bar, it can be said that the Applicants have made out a case for grant of bail. The Applicants are in custody for more than eight months and, hence, deserve to be enlarged on bail. The learned counsel for the Intervenor is not present. In any case, the learned APP has given the papers of investigation for perusal of this Court and has submitted that the matter be decided on merits. The above mentioned observations are prima facie in nature and are restricted only for the present application filed under section 439 of the Criminal Procedure Code and shall not be taken into consideration for deciding the application for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) Both the bail applications are allowed.
- (ii) The Applicants be enlarged on bail on furnishing a P.R. Bond in a sum of

Rs.25,000/- each and one or more solvent sureties in the like amount.

- (iii) The Applicants shall report to the concerned police station as and when called and shall co-operate with the investigating agency.

Bail application Nos. 890 of 2018 and 535 of 2018 are disposed of accordingly in the aforesaid terms. Intervention Application No. 208 of 2018 is also disposed of.

[SMT. SADHANA S. JADHAV, J.]