

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

BAIL APPLICATION NO. 2711 OF 2018

1. Mehaboob Qutubuddin Shaikh  
2. Sarfaraj Qutubuddin Shaikh ..Applicants

v/s.

The State of Maharashtra . ..Respondents

Mr. Suresh Sabrad a/w. Sonal Dabholkar for the Applicant.  
Mrs. J.S.Lohokare, APP for the State.  
Mr. E.T.Bhoir, PSI. Pimpalgaon P. Stn., Nashik Rd, present.

**CORAM : ANUJA PRABHUDESSAI,J.  
DATED : OCTOBER 15, 2018.**

**P.C.**

1. This is an application under Section 439 Cr.P.C. by the aforesaid applicants, who have been arrested in Crime No. 91 of 2018 registered at Pimpalgaon Baswant Police Station, Nashik for offences under Section 307, 427 r/w. 34 of the Indian Penal Code.

2. Mr. Sabrad, the learned Counsel for the applicants submits that even if the allegations in the FIR are taken as true, the same do not constitute offence under Section 307 of IPC. He submits that the

applicants were arrested on 7<sup>th</sup> June, 2018 and that the investigation is concluded, charge-sheet has been filed and that the presence of the applicants is no longer required in custody.

3. Mrs. Lohokare, the learned APP for the State, submits that the FIR prima facie discloses that the applicants had called the other assailants to assault the first informant. She submits that the offence is of serious nature and that the applicants are not entitled for bail. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by Karanjit Kuljitsingh Bajwa, who is the owner and driver of truck trailer no.MH 15 BJ 9499. A perusal of the FIR prima facie reveals that on 6<sup>th</sup> June, 2018 at about 9 a.m. he had proceeded to Nashik. He has stated that when he reached the Toll booth near Chandwad, the owner of the rickshaw bearing No. MH 15 DK 3217 had accosted him, alleging that his truck had almost brushed against his rickshaw. There appears to have been some altercation between the first

informant and the owner/driver of the said rickshaw. The first informant claims that the owner of the said rickshaw thereafter called some persons to the spot. Immediately, thereafter, about 3-4 persons chased his truck and stopped him near the flyover bridge at Gurudutt Hotel. He has further stated that thereafter the said persons pelted stones and broke the glass of his truck, they pulled him out of the truck and assaulted him by iron rod and other weapons.

5. In the course of investigation, the applicants and other co-accused were arrested. Identification parade was held and the supplementary statement of the first informant was recorded. The records prima facie reveal that the first informant has identified the applicant no.1 as the owner of the rickshaw and the applicant no.2 as one of the assailants. The material on record thus prima facie reveals that the applicants were involved in assaulting the first informant. However, the records reveal that the injuries sustained by the first informant were simple in nature. At this stage, there is no prima facie material to show that the applicants herein had assaulted the

first informant with an intention or knowledge of causing his death. Hence, in my considered view, prima facie the application of sections 307 as well as 326 is doubtful.

6. The applicants are in custody since 7<sup>th</sup> June, 2018. The investigation is concluded and chargesheet has been filed. The presence of the applicants is no longer required in custody. The applicants are permanent residents of Pimpalgaon, Nashik and there are no chances of the applicants absconding or thwarting the course of justice. Hence, the application is allowed on the following terms and conditions:-

(i) The applicants who are arrested in Crime No. 91 of 2018 registered at Pimpalgaon Baswant Police Station, Nashik are ordered to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) each with one or two solvent sureties in the like amount;

(iii) The applicants shall report to the Investigating Officer or in absence the Senior P.I. of Pimpalgaon Baswant Police Station on the first Monday of every month until further orders;

- (iv) The applicants shall provide their permanent as well as temporary address, if any, and their contact details to the Investigating Officer and in the bail bond;
- (v) The applicants shall not change their residential address without prior intimation to the Investigation Officer;
- (vi) The applicants shall not tamper with the evidence or interfere with the first informant or other witnesses in any manner.

**(ANUJA PRABHUDESSAI, J.)**