

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Bail Application No. 2783 OF 2017
Avinash J. Ghangav and anr. vs. State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Girish Agarwal for the Applicant.

Mr. R.M.Pethe, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 11th January, 2018

P.C.

1. This is an application under Section 439 of Cr.P.C. for bail in CR No. I-89 of 2015 dated 9.11.2015 registered with Kasara Police Station, District Thane Gramin under Sections 326, 147, 148, 149, 504, 506 of the Indian Penal Code.

2. The prosecution case in nut shell is that the witness Akshay Gangurde was having doubt against the applicant No.2 Pratik Ghangav that mobile phone of the said Akshay was stolen by applicant No.2. After the applicant came to know about the said fact he threatened the inured witness Akshay about dire consequences. That, on the date of incident the accused persons were in search of Akshay however as Akshay could not be traced they assaulted his brother Sagar Gangurde. It is alleged that the applicant No.1 assaulted Sagar with a sharp edged weapon i.e.

Chopper on his stomach and hand and the applicant No.2 Pratik assaulted Sagar Gangurde on his head with iron rod. During the course of investigation the applicant came to be arrested on 9.11.2015 and after completion of investigation the police have submitted charge sheet.

3. The record indicates that there are in all six accused persons. However, the main/vital injury is caused by applicant No.1 Avinash. The Medical Certificate issued in favour of Sagar Gangurde mentions the following injuries.

- a) Penetrating wound bowel protruding on left iliac fossa;
- b) CLW on left elbow;
- c) CLW on right frontal bone No fracture.

As far as injury No.3 is concerned, it is attributed to applicant No.2. As noted earlier the main injury causing penetrating wound is attributed to applicant No.1. The record further indicates that there is recovery of weapons i.e. chopper and iron rod at the instance of the applicant No.1 Avinash. After taking into consideration the allegations against the applicant No.1, coupled with the fact that serious injury was caused by him, this Court is of the view that the applicant No.1 does not deserve to be released on bail.

4. As far as applicant No.2 is concerned, he has attributed the role of assault with an iron rod on the head of the said injured witness Sagar. The learned counsel

appearing for the applicants submitted that the said injury is also possible by a fall during the assault by applicant No.1. Prima facie, I find substances in the said submission. The applicant No.2 is aged about 20 years and no fruitful purpose will be served in further keeping him in incarceration.

5. In view thereof, the applicant No.2 can be released on bail.

Hence, the following order.

- a) The application of applicant No.1 is rejected.
- b) The applicant No.2 be released on bail in CR No. I-89 of 2015 dated 9.11.2015 registered with Kasara Police Station, District Thane Gramin on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- c) After his release from Jail the applicant No.2. shall attend the concerned police station on every first Monday of the month between 11.00 a.m. to 2.00p.m. till filing of the charge sheet.
- d) The applicant No.2 shall also attend all the dates before the Trial Court.
- e) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.
- f) The applicant No.2 shall not tamper with the evidence and /or influence the prosecution witnesses.

- g) Application is partly allowed in the aforesaid terms.

(A.S. GADKARI, J.)