

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

CRIMINAL BAIL APPLICATION NO. 2200 OF 2018

Sanjay Kumar Namdev Gavade ... Applicant
Versus
State of Maharashtra ... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 3033 OF 2018**

Ravindra Rudarappa Gavade & Ors. ... Applicants
Versus
State of Maharashtra ... Respondent

Mr. Ritesh Thobde for Applicants in both the Applications.
Ms. Rutuja Ambekar, APP for Respondent – State.

**CORAM : NITIN W. SAMBRE, J.
DATE : FEBRUARY 12, 2019.**

P.C. :

. The Applicant Sanjay was arrested on 11th December 2017 whereas rest of the Applicants were arrested on 9th July 2018 in Crime No. 565 of 2017 for an offence punishable under Sections 307, 325, 324, 323, 143, 147, 148, 149, 327, 329, 427, 504, 506 of Indian Penal Code, Section 4 (25) of Indian Arms Act and Section 135 of the Maharashtra Police Act.

2. The prosecution case against the present Applicants is, Applicants have assaulted the complainant and his group members having differences over the construction of approach road/drawing water from the canal. It is the case of the Applicants that there is a cross-complaint against the group members of the complainant resulting into registration of Crime No. 564 of 2017 for an offence punishable under Sections 307, 324, 323, 504, 506, 143, 144, 147, 148, 149 of Indian Penal Code, Section 4(25) of Indian Arms Act and Section 135 of Maharashtra Police Act.

3. It is claimed that the group members of both the groups i.e. Applicants and Complainant have assaulted each other with the help of deadly weapons resulting in the members of both the groups suffering grievous injuries. According to them, apart from pendency of civil dispute perusal of FIR does not depicts that each of the Applicants have attributed with a specific role of assault. There are general attribution against the Applicants of use of weapon in commission of crime.

4. The learned Counsel for Applicants submits that till conclusion of trial the Applicants will not enter into the disputed area and the said statement be accepted as an undertaking and even if the

Applicants are found involved in the similar type of offence, liberty be granted to the prosecution to move for cancellation of bail.

5. The learned APP based on the medical evidence and the statement of the witnesses submits that the Complainant Sudhakar and Raju have suffered grievous injuries. The recovery at the behest of the Applicants is also brought to the notice of this Court. It is claimed that if the Applicants are released, there is likelihood of occurrence of similar type of offence as in past an offence of similar nature was registered against the Applicants.

6. Considered rival submissions.

7. It is not in dispute that in the offence registered at the behest of Applicants being Crime No. 564 of 2017 one of the members of the group of Applicants namely, Raj Kumar Gavade also suffered grievous injury.

8. The quarrel/fight between two groups started on the issue of strengthening of approach road/the maintenance of the canal. There appears to be civil proceedings pending before the Civil Court and it is

claimed that the Applicants have threatened the Complainant to withdraw the same. Perusal of both the First Information Reports i.e. cross-complaint filed by the group of Applicants, it is apparent that at the scene of offence it was free for all and members of both the groups have assaulted each other.

9. The Applicants are behind the bars for almost more than six months. Whereas the Applicant Sanjay is behind the bars for more than one year. In earlier crime Applicants are already acquitted.

10. Considering the cross-complaint, injury suffered by the members of the Complainant's group, the complainant having been released on bail in the offence registered at the behest of the Applicants, in my opinion, the Applicants' case for grant of bail deserves for consideration. Hence, the following order.

ORDER

(A) The Applicants be released on bail in 565 of 2017 for an offence punishable under Sections 307, 325, 324, 323, 143, 147, 148, 149, 327, 329, 427, 504, 506 of Indian Penal Code, Section 4 (25) of Indian Arms Act and Section 135 of the Maharashtra Police Act on

executing PR Bond of Rs.50,000/- with one or more sureties each in the like amount.

- (B) The Applicants shall neither tamper the prosecution evidence nor influence the prosecution witnesses.
- (C) The Applicants shall keep themselves away from the jurisdiction of the police station, Mangalwedha till conclusion of trial but for attending the trial.
- (D) If the Applicants are found involved in similar type of offence, liberty to the prosecution to move for cancellation of bail.

11. Both the Criminal Bail Applications stand disposed of accordingly.

(NITIN W. SAMBRE, J.)