

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 193 OF 2019**

Jitendra Anil Yadav & Ors.

....Applicants.

Vs.

The State of Maharashtra

....Respondent.

Mr. Harshad A. Sathe I/by Sachin Chandan for the Applicants.

Mrs. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 13th MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 35 of 2018 dated 25th February, 2018 registered with Ulhasnagar Police Station, District Thane under Sections 307, 353, 332, 333, 324, 323, 504, 143, 147, 148 and 149 of the Indian Penal Code

2 Heard the learned counsel for the Applicants and the learned APP. Perused the charge sheet.

3 It is the prosecution case that, under the directions of the Superior Officer, when the first informant Shri Babasaheb Avahad, a Police Head Constable attached to Ulhasnagar Police Station had been to the place of the Applicants to accost the Applicant No.1 and to

bring him at police station, in furtherance of the Complaint made by Mr. Beni Prasad Yadav, the Applicants along with other three accused persons assaulted the police party with an iron rod and wooden logs.

It is alleged that, the Applicant No.1 assaulted the informant- police officer with an iron rod on his head. During the course of investigation, the Applicants came to be arrested on 25th February, 2018 and after completion of investigation, police have submitted charge-sheet.

4 Taking into consideration the vital role played by the Applicant No.1 Jitendra Yadav in the present crime in assaulting the police officer with an iron rod, who was performing his lawful duty and when this Court expressed its disinclination to grant any relief, the learned counsel, on instructions, seeks leave to withdraw the Application *qua* the Applicant No.1 Jitendra Yadav unconditionally.

5 The present Application is therefore, heard *qua* the other two Applicants namely Applicant No. 2 Ramchandra Yadav and Applicant No. 3 Bhagirath Yadav.

The record indicates that, the other five co-accused namely Pintu Kartik Yadav, Virendra Jamuna Yadav, Lalukumar Jamuna Yadav, Ganesh Vasudev Yadav and Sitrama Telnarayan Yadav, who

have been attributed with same and/or similar role i.e. of assault with wooden logs on the first informant and the other police party have been granted bail by the Co-ordinate Bench of this Court in BA No. 2119 of 2018 by its Order dated 21st December, 2018 and therefore, the Applicant Nos. 2 and 3 are entitled to be released on bail on the ground of parity.

In view of above, the following Order.

- a) The Application of Applicant No.1 Jitendra Yadav is hereby dismissed, as withdrawn.
- b) The Application of Applicant No. 2 Ramchandra Yadav and Applicant No. 3 Bhagirath Yadav is allowed in the following terms.
 - i) The Applicant No. 2 Ramchandra Yadav and Applicant No. 3 Bhagirath Yadav be released on bail in CR No. 35 of 2018 dated 25th February, 2018 registered with Ulhasnagar Police Station, District Thane on their furnishing PR bond of Rs.25,000/- each with one or two

separate solvent local sureties in the like amount.

- ii) After their release from Jail, the Applicant No. 2 Ramchandra Yadav and Applicant No. 3 Bhagirath Yadav shall attend all the dates before the Trial Court unless precluded on medical reasons.
- iii) In case of two consecutive defaults, the Investigating Officer is at liberty to file an Application for cancellation of bail.
- iv) The Applicant No. 2 Ramchandra Yadav and Applicant No. 3 Bhagirath Yadav shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- v) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)