

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

CRIMINAL BAIL APPLICATION NO.2760 OF 2018

Jitesh Alias Bhavesh Nivrutti Bhoir	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.2755 OF 2018**

Akshay Sharad Karande & Ors.	.. Applicants
Vs.	
State of Maharashtra	.. Respondent

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Mr.Ravindra Sawant a/w. Mr.Ashitosh Mantri I/b. Mr.Harshad Kamble, Advocate for the Applicants.

Mr.A.R. Kapadnis, APP for the Respondent – State.

Mr.Laxman Nishandar, H.C. Shil Dayghar Police Station, District-Thane.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 31, 2019.

P.C. :

The applicants in both these applications are seeking bail in connection with C.R.No.I-71 of 2018, registered with Shil Daighar Police Station, District-Thane, for the offences

punishable under Sections 307, 324 and 365 read with 34 of Indian Penal Code ("IPC", for short) and Sections 3 and 25 of Arms Act. First Information Report ("FIR", for short).

2 The case of the prosecution is that on 10th May, 2018, the complainant and others had proceeded to showroom for repairing their car. At that time, the accused came there in a Swift Car. There were altercations between both the groups. Accused were armed with wooden log. One of them fired bullet at the complainant. Complainant and others started running from the place of incident, but all accused chased them. At that time, injured Gotya alias Avinash was forcibly made to sit in the car. He was assaulted and was found in an injured condition. FIR was lodged on 11th May, 2018. Applicants were arrested. On completing investigation, charge sheet is filed. The case of the prosecution is that the applicant in Bail Application No.2755 of 2018, had assaulted injured Gotya alias Avinash.

3 Learned counsel for the applicants submitted that the applicants are in custody from the date of arrest. Investigation is completed and charge-sheet is filed. Complainant has not named applicants in the FIR. The version of the complainant and the

interested witnesses is not supported by independent witnesses. The evidence suffers from various contradictions. The victim was treated and he is out of danger. The clothes, which were recovered from the accused does not bear blood stains. No role has been assigned to the applicant in BA No.2760 of 2018. Learned APP submitted that there are eye witnesses to the incident. Overtact has been attributed to the accused. There is recovery of clothes at the instance of the applicants. Injured Avinash has sustained serious injuries. He was beaten by the accused with weapon as well as fist blows. The prosecution case is supported by the evidence of eye witnesses.

4 Having heard both the side, I have gone through the documents on record. Statement of the complainant is recorded on 11th May, 2018. It is apparent that he has not referred to the names of the applicants. However, his supplementary statement was recorded on 11th May, 2018, wherein he has stated that he was called at the police station and was told that three accused were arrested and for the purpose of their identification, he remained present at the police station. The arrested accused were shown to him and they were identified by him. It is pertinent to note that the FIR and the supplementary statement

does not attribute any overtact to the applicant Jitesh Bhoir. Prosecution is relying upon recovery of the clothes from the arrested accused. But, panchanama does not indicate that there was any blood stains on the clothes. The case against Jitesh Bhoir is that he has allegedly shown the place of incident. Statement of independent witness Fadtare was recorded during the course of investigation, who was present at the scene of offence. However, in his statement it is stated that he has not seen any person holding wooden log nor he had seen anyone firing at the complainant. Similarly, statements of Vithoba Padangale and another witness were recorded. In their statements, it is stated that they did not notice any person armed with wooden log or revolver. Prosecution case is that the injured Avinash was abducted and the role is allegedly attributed to applicants Akshay Karande and Akash Patil. However, on perusal of the statement of the witnesses, it can be seen that the role of assaulting the injured by knife is attributed to co-accused. Others were attributed role of having assaulted by fist blows. The Applicants in Bail Application No.2755 of 2018, had arrived at scene of offence during the course of the incident. In the light of the nature of evidence collected during the course of investigation as stated hereinabove, further custody of the applicants are not

necessary. Investigation is completed and charge-sheet has been filed. Hence, the case for grant of bail is made out.

4 Hence, I pass the following order:

:: ORDER ::

- (I) Criminal Bail Application Nos.2760 and 2755 of 2018, are allowed;

- (ii) Applicants are directed to be released on bail in connection with C.R.No.I-71 of 2018, registered with Shil Daighar Police Station, District-Thane, on their furnishing P.R.Bond in the sum of Rs.25,000/-, each, with one or more sureties in the like amount;

- (iii) Applicants shall attend Shil Daighar Police Station, District-Thane,, once in a month on first Saturday between 11:00 to 1:00 p.m., till further order;

(iv) Applicants shall not tamper with the prosecution witnesses;

(v) Bail Applications stand disposed of.

(PRAKASH D. NAIK, J.)