

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 BAIL APPLICATION NO.129 OF 2020

MANIKRAO S/O. NAMDEO BHOSALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Ghatol Patil Shahaji B.
APP for Respondent : Mr. N T Bhagat

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CORAM : V.K. JADHAV, J.
Dated : January 04, 2021

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PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No.76 of 2017 registered with Limbgaon Police Station, District Nanded for the offences punishable under sections 302, 307, 326, 324, 323, 143, 147, 148, 149 of the Indian Penal Code, Section 4/25 of Arms Act and Section 135 of Bombay Police Act. Their application with similar prayer below Exh.114 in Sessions Case No.11 of 2018 came to be rejected by the learned Additional Sessions Judge, Nanded vide order dated 31.12.2019.

2. Learned counsel for the applicants submits that investigation is over and charge-sheet has been submitted. The applicants are on temporary bail in terms of the guidelines issued by the High Power Committee. Learned counsel submits that there is a dispute in respect of the agricultural land and even civil suit was also pending in the Court. Learned counsel submits that in respect of the incident occurred on the same date, time and place, co-accused Ananda Namdeo Bhosale has lodged the complaint against the informant and 17 others and on the basis of his complaint crime no.77 of 2017 came to be registered. Learned counsel submits that there is no criminal history. The applicants are the agriculturists by occupation. They are ready to abide the conditions, if imposed by this Court while enlarging them on bail. Learned counsel submits that the applicants have not assaulted the deceased but as per the allegations made in the complaint, they have assaulted the informant with the help of sword, however, the informant has sustained simple injuries in the assault and those injuries also

caused by hard and blunt object and not by hard and sharp object. The applicants may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that the applicants alongwith co-accused persons formed an unlawful assembly and in prosecution of the common unlawful object of the said assembly went to the land in dispute and assaulted the informant and others including deceased Sham with the deadly weapon like sword, axe, etc. Even though, no specific role is ascribed to these applicants for causing injuries on the person of the deceased, however, in terms of the constructive liability as provided under section 149 of the IPC, the applicants are liable for the act of the other accused persons. There is strong possibility of tampering with the prosecution evidence. The applicants may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the investigation papers, it appears that there was almost a free fight between the

members of the two groups and in consequence thereof, both the groups have lodged the complaints against each others. On the basis of the complaint lodged by co-accused Ananda Bhosale, crime no.77 of 2017 came to be registered against the informant and 17 others for having committed an offence punishable under section 307, 337 etc. of the IPC. In view of the same, since there was almost a free fight between the members of two groups, prima facie, provisions of section 149 of IPC are inapplicable. Thus, the individual acts are required to be considered. So far as the present applicants are concerned, it has been alleged that they have caused injuries on the person of the informant with the help of sword, however, on perusal of the Medico-Legal-Certificate of the informant, it appears that he has sustained simple injuries by hard and blunt object and not by hard and sharp object. The applicants are the agriculturists by occupation. There is dispute in respect of the agricultural land between the two groups and civil suit is pending. There is no criminal history. Thus, by

imposing certain conditions, I am inclined to release both the applicants on bail. Hence, following order.

O R D E R

- I. Application is hereby allowed.
- II. Applicant nos.1]- MANIKRAO S/O. NAMDEO BHOSALE AND 2]- TUKARAM S/O. MANIKRAO BHOSALE in connection with Crime No.76 of 2017 registered with Limbgaon Police Station, District Nanded for the offences punishable under sections 302, 307, 326, 324, 323, 143, 147, 148, 149 of the Indian Penal Code, Section 4/25 of Arms Act and Section 135 of Bombay Police Act, be released on bail on furnishing P.B. of Rs.20,000/- (Rs. Twenty Thousand) EACH with solvent surety of the like amount by each of them, on the following conditions :-
 - a] The applicants shall not tamper with the prosecution evidence, in any manner.
 - b] The applicants are on temporary bail. The applicants shall surrender first before the concerned Magistrate and after their remand to Jail, in terms of this order, they be released on bail.

III. Bail application is accordingly disposed off.

(V.K. JADHAV, J.)

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