

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 BAIL APPLICATION NO.166 OF 2021

FALJAN MUNAF DEVNIKAR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.S. Shinde, Advocate for applicants

Mrs. D.S. Jape, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 25th FEBRUARY, 2021.

ORDER :

1 Present applicants have been arrested on 03.01.2021, in connection with Crime No.4/2021 by City Police Station, Udgir, Tq. Udgir, Dist. Latur, for the offence punishable under Section 307, 452, 324, 323, 506 read with Section 34 of the Indian Penal Code. They have filed present application under Section 439 of the Code of Criminal Procedure, 1973.

2 It will not be out of place to mention here itself that after the disinclination is shown to grant any relief to the applicant No.3, the learned Advocate for the applicants, on instructions, seeks to withdraw the application in respect of applicant No.3. There is no hurdle to allow the said

prayer. The application is, therefore, now restricted to applicant Nos.1 and 2 only.

3 Heard learned Advocate Mr. R.S. Shinde for applicants and learned APP Mrs. D.S. Jape for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 It is to be noted that the First Information Report has been lodged by one Shaikh Shamim w/o Laik Shaikh, who resides with her two sons, two daughters and husband. Present applicants are their neighbours and there is a dispute between both the families in respect of the space near their houses. That dispute is pending with the Court. According to the informant, her husband was preparing bread in his bakery at about 11.30 a.m. on 03.01.2021, at that time, the present applicants and one unknown person went behind the house of the informant in the dilapidated house and started demolishing work. Informant's husband Laik went there and told that he uses that place to tie his she-goats, and therefore, they should not demolish the place. All the four persons abused Laik, but then Laik came back to his bakery. Those persons dragged him from bakery to the said dilapidated house. Laik started shouting for help, at that time, informant, her cousin and daughter went there. They found that present applicant Nos.1 and 2 and the unknown person were assaulting Laik by catching hold

of him. The present applicant No.2 then told that Laik should be eliminated and at that time applicant No.3 gave blow of spade on the head of Laik, resulting in serious injury. All the four persons were giving kicks and fist blows to Laik. Applicant No.2 had then given blow of handle of mattock to the brother-in-law of the informant, resulting in injury to his left elbow. Laik and Shafik were then taken to Government Hospital, Udgir and then they were shifted to Government Hospital, Latur. Thus, as regards the role attributed to the present applicant Nos.1 and 2 is concerned, that they had assaulted Laik with fists and kicks blows. Further, as regards the applicant No.2 is concerned, it is stated that he had assaulted with mattock to the brother-in-law of the informant to elbow. Therefore, at the most the act would attribute offence under Section 324, 323, 506 read with Section 34 of the Indian Penal Code against them. The documents produced by the present applicants on record would show that there is temporary injunction granted against Laik by the competent Court, and therefore, offence under Section 452 of the Indian Penal Code would be made out or not is required to be considered by the concerned Court. The allegations against the present applicants do not require their further physical custody to continue. Further, the alleged weapon i.e. mattock used in assaulting brother-in-law of the informant has already been discovered by applicant No.3. Laik has also been discharged from the hospital. Substantial part of the investigation appears to

be over, and therefore, they deserve to be released on bail, however, with stringent conditions. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicants viz. 1) Faijan Munaf Devnikar and 2) Muktdir Munaf Devnikar, who have been arrested in connection with Crime No.4/2021 by City Police Station, Udgir, Tq. Udgir, Dist. Latur, for the offence punishable under Section 307, 452, 324, 323, 506 read with Section 34 of the Indian Penal Code, be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only).

3 The applicants shall not tamper with the evidence of the prosecution, in any manner.

4 They shall not indulge in any criminal activity.

5 They shall attend the City Police Station, Udgir, Dist. Latur, twice in a week i.e. on every Wednesday and Saturday between 08.00 a.m. to 11.00 a.m., till filing of charge sheet. So also they should comply with the requirements under paragraph Nos.12 (1) to (6) of Chapter I of Criminal Manual, (whichever are applicable).

6 Application stands disposed of as withdrawn against applicant
No.3.

7 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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