

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.439 OF 2021

1. Nitin Ramchandra Zanje,
Age 34 years, Occupation Agri.,
2. Popat Ashok Zanje,
Age 31 years, Occupation Agri.,
3. Sunil Dashrath Zanje,
Age 35 years, Occupation Agri.,
4. Ashok Malhari Zanje,
Age 55 years, Occupation Agri.,

All R/o Vahira Tal. Ashti Dist. Beed.

**...Applicants
(Original Accused)**

VERSUS

The State of Maharashtra,
Through Police Station officer,
Ambhora Police Station,
Dist. Beed.

...Respondent

.....

Advocate for Applicants : Mr. N. V. Gaware.

APP for Respondent-State : Mr. S. B. Narwade.

.....

**CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 04-05-2021.**

ORDER :

1. Present applicants came to be arrested on 04-03-2021 by Ambhora Police Station Dist. Beed, in connection with Crime No.55 of 2021, for the offence punishable under Section 307, 326, 324, 143,

147, 148, 149, 504, 506 of the Indian Penal Code. They have filed present application under Section 439 of Code of Criminal Procedure.

2. Heard learned Advocate Mr. N. V. Gaware for applicants and learned Additional Public Prosecutor Mr. S. B. Narwade for respondent-State.

3. It has been vehemently submitted on behalf of the applicants that the present First Information Report is the counterblow to the First Information Report that was lodged on behalf of the applicants side bearing Crime No.52 of 2021 with the same police station. If we peruse the present First Information Report then the incident is stated to have taken place on 27-02-2021 and the offence came to be lodged on the basis of complaint / report lodged by one Mahesh Bhausaheb Zanje on 04-03-2021 at about 17.11 hours, whereas the First Information Report that was lodged regarding the incident on behalf of the applicants was lodged by Yogesh Ramchandra Zanje on 01-03-2021 at about 14.32 hours for the offence punishable under Section 326, 324, 323, 504, 506, 143, 147, 148, 149 of Indian Penal Code. The said delay in lodging the report has not been explained by the informant Mahesh Zanje. As regards the role attributed to the present applicant is concerned, applicant No.2 is stated to have

caused injuries on the left side of the body of father of the informant, and by giving a blow on his head by means of scythe applicant No.1 is stated to have caused injuries to the back of the informant with the help of handle of the axe, applicant No.3 had pelted stones, and there is no specific role attributed to applicant No.4 in the First Information Report. When it is a cross complaint and all the persons from the informant's side in the cross complaint have been released on bail, so also in respect of present crime accused Ganesh Ashok Zanje, Popat Ashok Zanje, Ashok Malhari Zanje, Ramchandra Malhari Zanje who have been almost similarly placed have been released on bail. The present applicants are also entitled to be released on bail on the ground of parity.

4. Per contra, the learned Additional Public Prosecutor has strongly opposed the application and submitted that specific role has been attributed to the applicants. After the arrest of the applicants, applicant No.4 has discovered two sticks and one iron rod. Taking into consideration the statements of the witnesses and the fact that all the persons are resident of the same village, possibility of similar offence in future cannot be ruled out, and therefore, no leniency be shown.

5. At the outset, it clearly appears that there is delay in lodging the First Information Report. Incident is stated to have taken place on 27-02-2021 where the First Information Report has been lodged on 04-03-2021. The offence vide Crime No.52 of 2021 was lodged earlier i.e. on 01-03-2021. There may be substance in the say of the applicants that it is crime on the basis of report lodged by Mahesh Zanje may be the counter-blow. However, the fact cannot be ruled that informant Mahesh Zanje and other persons had received injuries equal to the injuries sustained by the present applicant and other persons from their side. Now it is to be noted that as per the First Information Report, present applicants No.1 to 3 had used scythe, iron rod and handle of axe. Except iron rod it appears that the police have not been able to recover scythe and axe. The applicants have undergone the police custody period. Another fact to be noted is that the recovery is stated to be at the instance of applicant No.4 in respect of whom no specific role is attributed in the First Information Report. If we peruse the injury certificate of the father of the informant then definitely it appears that he has received grievous hurt, but a specific injury to his head appears to be not written, whatever has been received is in respect

of his face. As regards the informant is concerned, the injury certificate says that he had received simple injuries. Therefore, taking into consideration all these aspects, the applicants deserve to be released on bail. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Applicants Nitin Ramchandra Zanje, Popat Ashok Zanje, Sunil Dashrath Zanje, Ashok Malhari Zanje, arrested in connection with Crime No.55 of 2021, registered with Ambhora Police Station Dist. Beed, for the offence punishable under Section 307, 326, 324, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, be released on P.R. of Rs.30,000/- each (thirty thousand) with two solvent sureties of Rs.15,000/- each (fifteen thousand).
- 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) Before submission of bail papers, the applicants should give complete address of their residence with their mobile numbers. So also they should comply with the requirements under paragraphs No.12 (1) to (6) of

Chapter I of Criminal Manual, whichever are applicable.

6) The appellants to attend Ambhora Police Station Dist. Beed on every Sunday in between 09.00 a.m. to 12.00 noon, till filing of the charge-sheet.

7) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-