

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

CRIMINAL BAIL APPLICATION NO. 847 OF 2021

1. Anil Balku Mohite	
2. Sunil Balku Mohite	
3. Malhari Appaso Mohite	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Rajaram Vaman Bansode for the Applicants

Mr. H. J. Dedhia, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 1st OCTOBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 165/2020 registered with the Mhaswad Police Station, Satara, for the alleged offences punishable under Sections 302, 307, 326, 324, 323, 504, 506, 143, 144, 147, 148, 149, 188 and 269 of the Indian Penal Code; under Section 51(b) of the Disaster Management Act and under Section 11 of the Maharashtra COVID-19 Rules.

3 Perused the papers. The incident is alleged to have taken place on 25th July 2020. With respect to the said incident, there is a cross FIR lodged by the applicants' side i.e. C.R No. 166/2020 alleging offences punishable under Sections 307, 326, 324, 323, etc. of the Indian Penal Code as against the complainant in the present C.R and 6 others. In the present C.R i.e. C.R No. 165/2020, the complainant-Vitthal Jagdale (son of deceased Mahadev Jagdale) has alleged that on 25th July 2020 at about 6 p.m, when he was standing near Maruti Temple, his maternal uncle-Narayan expressed his anguish and stated that he was going to finish all of them and started abusing him. The complainant has alleged that at about 7:00 p.m, when his brother-in-law-Akash was in his milk van near his house, at that time, the complainant intervened and stopped the said milk van and questioned him why his father had abused him and his family. Pursuant thereto, Akash left the said milk van and ran towards his house abusing the complainant. The complainant has stated that he followed Akash to his house, when suddenly his brother-in-law-Kiran, Akash, Dattatray, Sunil (applicant No.2), Anil (applicant No. 1), Malhari (applicant No.3) and Jyotiram, came and stood in front of him near the house of Ashok Mane. He has stated that his uncle-Lalaso, Narayan and brother-in-law-Kiran and Akash were armed with an axe and his brother-in-law Dattatray and Sunil were armed with sticks. He has stated that Akash took

the stick from Dattatray and assaulted him on both legs and when he shouted loudly, his father-Mahadev (deceased), brotherDashrath, son-Amol and Sunil rushed to the spot. He has stated that his uncle-Lalaso told them that he was going to finish the entire family and as such, assaulted Mahadev (complainant's father) with an axe on his head, as a result of which, Mahadev fell on the ground. It is alleged that thereafter, Kiran assaulted Sunil on his head, stomach and hand with an axe and when complainant's son-Amol intervened, assaulted Amol. Pursuant to the said incident, Mahadev succumbed to the said injuries on 4th August 2020, after about 9 days.

4 Apart from Mahadev, 4 others are stated to have sustained injuries i.e. Vitthal sustained a fracture on the left elbow and left tibia; Dashrath sustained an injury on the right orbit cranium. With respect to the said incident, there is a cross FIR as noted above also alleging offence under Section 307, etc.

5 According to the learned counsel for the applicants, the complainant and his family were the aggressors. As far as the applicant Nos. 1 and 3 are concerned, they were only standing on the spot, whereas, applicant No. 2 is stated to have been armed with a stick. As far as the

applicants are concerned, no overt act is attributed to them vis-a-vis the assault on Mahadev (deceased). The applicants are in custody since December 2020. Investigation is complete and charge-sheet is filed.

6 Considering the aforesaid, the application is allowed and the applicants are enlarged on bail, on the following terms and conditions :

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- each, with one or two sureties in the like amount;

(ii) The applicants shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, until framing of charge;

(iii) The applicants shall inform their latest places of residence and mobile contact numbers immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicants to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicants shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of their release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

7 The application is disposed of in the aforesaid terms.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.