

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

BAIL APPLICATION NO. 596 OF 2022

1. Yogesh Shivaji Pardeshi
 2. Shubham Narayan Pardeshi
 3. Hari Vithal Pardeshi
 4. Vithal Mhasudev Pardeshi
 5. Bhagwan Bapurao Pardeshi
- ... Applicants

Versus

The State of Maharashtra

... Respondent

....

Mr. Nilesh S. Ghanekar, Advocate for applicants

Mr. D. R. Kale, Government Pleader for respondent No.1 – State

....

WITH

CRIMINAL APPLICATION NO. 1500 OF 2022

Dattatraya Bhausahab Pansare

... Applicant

Versus

Yogesh Shivaji Pardeshi and others

... Respondents

....

Mr. S. S. Thombre, Advocate for applicant

Mr. Nilesh S. Ghanekar, Advocate for respondent Nos. 1 to 5

Mr. D. R. Kale, Public Prosecutor for respondent No.6 – State

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CORAM : R. G. AVACHAT, J.

DATED : 02nd AUGUST, 2022

PER COURT :-

. Criminal Application No. 1500 of 2022 is allowed. The original complainant is permitted to assist the learned Public Prosecutor.

2. Heard. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicants have been arrested in connection with Crime No.0395/2021, registered at Belwandi Police Station, District Ahmednagar, for the offences punishable under Sections 143, 147, 148, 149, 307, 327, 324, 323, 504, 506, 427 of the Indian Penal Code and under Sections 3/25 and 4/25 of the Arms Act.

3. After having heard the learned Advocate for the applicants, this Court expressed disinclination to grant the applicants Yogesh Shivaji Pardeshi and Bhagwan Bapurao Pardeshi (applicant Nos. 1 and 5), bail. He, therefore, came around to seek withdrawal of their application. Their application, thus, stands disposed of as withdrawn with liberty to move after six months.

4. The First Information Report (FIR) has been lodged by the victim himself. The incident is said to have occurred in the field belonging to the informant. From the record, it appears that it is the dispute over a right of way between the family of the informant and that of the applicants. On the given day, the informant had been to the field with a JCB. The applicants found that the JCB was being used to damage or dismantle the road. The applicants and the

co-accused, therefore, pelted stones on the JCB. The photograph, which has been placed on record, indicates the JCB has suffered damage.

5. The FIR has been lodged against 17 persons. The informant has given graphic details of the incident as to how the same took place. The co-accused is not before the Court who was alleged to have been armed with a firearm. Co-accused Shivaji is alleged to have assaulted on the head of the informant with a sword. A photograph of head injury is placed on record to influence the decision of this application since it is not part and parcel of the police papers. The injury certificate indicates the informant to have suffered 16 injuries. The medical papers on record indicate that the informant was indoor patient for about thirty days. First 6 – 7 injuries are stated to be grievous in nature.

6. The learned Advocate for the applicants would submit that there is a counter FIR. A person from the applicants side had also been assaulted. It appears none of them had suffered grievous injury and therefore no injury certificate has been placed on record. It is also informed that the informant runs an educational institution. He is financially well and an influential person in the area. It is also told

that the informant is very much present before the Court. On the previous day also he was there. It is also told that the informant has criminal antecedents. He was also involved in an offence of murder.

7. The learned APP and the learned Advocate for the intervenor would, on the other hand, submit that the informant has been survived only with the grace of the god. Had the employees of the college not rushed immediately, the informant would not have been seen survived. According to them, all the family members have mounted an attack. Most of them were armed with weapons like sickle, sword and iron rod. The number of injuries suffered by the informant have also been referred to. Both the learned Advocates ultimately urge for rejection of the application.

8. On investigation, the charge-sheet has been filed. The informant appears to have been recovered of the injuries suffered. The one who has assaulted on his head with a sword, is not before the Court. The applicants Hari and Vithal have allegedly assaulted him with stone. Considering their role in the offence, this Court is inclined to grant them, bail.

True, Shubham is said to have assaulted the informant with an iron rod. He is 21 years of age. This weighed with this Court

to grant him bail. In view of the same, the application of Shubham, Hari and Vithal is allowed in terms of following order:-

ORDER

- (i) The Bail Application of applicant Nos. 2 to 4 is allowed.
- (ii) The applicant Nos. 2 to 4 i.e. Shubham Narayan Pardeshi, Hari Vithal Pardeshi and Vithal Mhasudev Pardeshi, be released on bail in connection with Crime No.0395/2021, registered at Belwandi Police Station, District Ahmednagar, for the offences punishable under Sections 143, 147, 148, 149, 307, 327, 324, 323, 504, 506, 427 of the Indian Penal Code and under Sections 3/25 and 4/25 of the Arms Act, on their executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with surety bond each of the like amount.
- (iii) The applicant Nos. 2 to 4 shall not enter the village Ghargaon till next six months. They shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS