

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

BAIL APPLICATION NO. 1016 OF 2022

Rakesh @ Sachin Rajendra Choudhari ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

WITH

BAIL APPLICATION NO. 1017 OF 2022

Mayur Dilip Patil ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

WITH

BAIL APPLICATION NO. 1003 OF 2022

Avinash @ Bhadra Suresh Patil ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

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Mr. M.V. Salunke, Advocate for applicants in BA/1016/2022 & BA/1017/2022

Mr. A.K. Bhosle, Advocate for applicant in BA/1003/2022

Mr. A.V. Deshmukh, A.P.P. for respondent – State

Mr. U.A. Khekale, Advocate for assist to A.P.P.

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**CORAM : R.G. AVACHAT, J.
DATE : 22nd AUGUST, 2022**

PER COURT :

1. These three applications for bail under Section 439 of Code of Criminal Procedure are being decided by this common order since they arise

from one and the same crime. The applicants have been arrested in connection with Crime No. 42 of 2022 registered with Pachora Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 114, 120B, 143, 147, 148, 149, 201, 323, 324 and 504 of the Indian Penal Code and under Sections 37(1)(3) and 135 of the Maharashtra Police Act.

2. Heard. Perused the First Information Report (“F.I.R.”) and related police papers.

3. The F.I.R. has been lodged by one Sunny Deokar on 31st January, 2022. It has been averred in the F.I.R. that in the evening of 30th January, 2022, the informant and his friends were playing cricket on the ground in front of Burhani High School at Pachora. Playing was over by 05.30 p.m. Informant’s friend Harshal Patil had called Vicky Shinde at Burhani High School, since in the morning Vicky had given him a cut while Vicky was driving an ambulance and Harshal was riding a motorbike. Vicky had, therefore, arrived there alongwith his friends including the applicants herein. All of them were armed with sticks. Some talk took place between Vicky and Harshal. Vicky and his associates, including the applicants, beat up Harshal with sticks. Harshal’s friend Bhushan was also beaten up. Co-accused – Sagar Patil gave a chopper to Vicky. Applicant – Avinash instigated Vicky to facilitate the assault of chopper on Bhushan. Applicants – Sachin, Mayur and

co-accused – Rahul Patil and Chetan Patil caught hold of Bhushan. Vicky, in turn, stabbed on the stomach of Bhushan with the chopper. Bhushan was rushed to Vighnaharta Hospital. He was then shifted to Civil Hospital, Jalgaon. Bhushan however, succumbed to the injuries suffered in the alleged incident.

4. Learned counsel for the applicants would submit that F.I.R. does not disclose true state of affairs. The informant himself was involved in the offence. It was a fight between two groups on account of morning incident. Harshal Patil had called Vicky many a times on cell phone and abused him in filthy language. Informant – Sunny was in the company of Harshal. He too, abused Vicky. Harshal had called Vicky to Burhani High School as he wanted to beat up Vicky over the morning incident. According to learned counsel, fatal assault is not attributed to any of the applicants. He, therefore, urged for grant of application.

5. Learned A.P.P. and learned counsel for the intervener would, on the other hand, submit that it is a serious offence. There is eye witness account. Besides murder of Bhushan, others were grievously injured. Trial Court may be requested to commence the trial and conclude the same within time frame. They, therefore, urged for rejection of the application.

6. Considered the submissions advanced. The incident was a fallout of co-accused Vicky to have given cut to Harshal in the morning. There is material on record to indicate Harshal to have had made many phone calls to Vicky. Vicky is an ambulance driver. He had gone to Jalgaon carrying one patient. The telephonic conversation between the two is on record in the nature of script. The same indicates Harshal had asked Vicky to come to Burhani High School as he wanted to beat him up. The informant was in the company of Harshal. He too abused Vicky. Vicky alongwith his friends, including the applicants herein, therefore, had been to Burhani High School. A fight ensued between Vicky and his friends on one hand and Harshal and his friends on the other. Sagar Patil gave a chopper to Vicky while applicant – Avinash gave chopper to Harshal. Bhushan died of the injuries suffered due to chopper blow given by Vicky. The police papers indicate that the persons of the respective groups stick up to their version.

7. On investigation, charge-sheet has been filed. It will necessarily take time for commencement and conclusion of trial. The applicants have not been attributed with murderous assault to the deceased. They allegedly assault others with stick blows. Applicant – Avinash allegedly gave chopper to Harshal, who has admittedly not wielded the chopper. As such, considering the role attributed to the applicants herein in the alleged offence, the Court is inclined to grant them bail.

8. In view of above, the applications deserve to be allowed. Hence I pass the following order :-

ORDER

(I) The bail applications are allowed.

(II) The applicants be released on bail, in connection with Crime No. 42 of 2022 registered with Pachora Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 114, 120B, 143, 147, 148, 149, 201, 323, 324 and 504 of the Indian Penal Code and under Sections 37(1)(3) and 135 of the Maharashtra Police Act, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount.

(III) The applicants shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

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