

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

52 BAIL APPLICATION NO.1569 OF 2022
WITH APPLN/3299/2022 IN BA/1569/2022

1. RAMSING KAGDYA VASAVE
2. RULSING RAYA VASAVE
3. RAMESH SOTYA VASAVE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Savale Amit S.
APP for Respondent-State : Ms. V. S. Choudhari.
Advocate for Complainant to Assist APP : Mr. Pande D. D.

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CORAM : S. G. MEHARE, J.
DATE : 10.10.2022

PER COURT :-

1. Heard the learned counsel for the applicants, learned APP for the respondent-State and learned counsel for the complainant assisting the learned APP.

2. It has been alleged against the applicants that they along with other co-accused started demolishing the shops, which were allegedly encroached upon the land of one of the co-accused. The applicants were under the influence of the liquor. When the complainant opposed them, applicant Ramsing assaulted him with an iron pipe on his right hand, right knee and waist. Applicant Rulya Raya Vasave and Rumalya Vesta

Vasave assaulted him with kicks and fists blows. One of the co-accused assaulted injured with hammer on his head and the ear.

3. Learned counsel for the applicants has vehemently argued that the weapons allegedly used in the crime have been seized. Considering the role allegedly attributed to the applicants, no serious injuries were suffered to the complainant except grievous injuries on his forearms. He would submit that the father of the complainant had encroached the land of one of the co-accused. They had no intention to commit the crime. However, the complainant instigated them. The complainant was well aware that his father had encroached the land of one of the co-accused. The applicants have been arrested on 10.08.2022. They have been undergone the police custody remand. They are behind the bar for about two months. The investigation is mostly completed. Nothing is to be recovered from the applicants. Therefore, they may be released on bail.

4. Learned APP has strongly opposed the application contending that the offence is serious and they were rude. The alleged co-owner of the land had a legal remedy to evict the encroachment. But the applicants and other co-accused took the law in their hand and started causing damage to the

property of the father of the complainant. The applicants were so aggressive and under the influence of the liquor. Therefore, there is great apprehension of tampering with the prosecution witnesses.

5. Learned counsel Mr. Pande for the complainant has vehemently argued that the applicants have a gang. They extort the money from poor persons in the village. The serious injuries have been caused to the injured. The applicants have created terror in the locality. The investigation is in progress. Hence, they may not be granted bail.

6. Perused the papers produced by the learned APP. No doubt, the injured has fracture on forearms. It is a grievous injury. Learned APP concedes that the weapons allegedly used in the crime were seized. It indicates that the material investigation is over, atleast against the present applicants. Applicants Rulya Vasave and Rumalya @ Ramesh Vasave did not use the weapons. It also seems that the incident happened at the spur of the moment. The applicants were under the influence of liquor, which indicates that they were not fully conscious. Be that as it may, considering the length of their arrest and substantial progress in the investigation, no purpose

would be served keeping them behind the bar. However, some conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant Nos.1. RAMSING KAGDYA VASAVE, 2. RULSING RAYA VASAVE and 3. RAMESH SOTYA VASAVE be released on bail on furnishing P.B. and S.B. of Rs.20,000/- (Rupees Twenty Thousand only) each with one solvent surety of the like amount each, in Crime No.112 of 2022, registered by Police Station Molgi, District Nandurbar, for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 504 and 506 of the IPC, on the following conditions :
 - (a) They shall attend the Police Station on every Monday between 10.00 a.m. to 1.00 p.m. till filing the charge sheet.
 - (b) They shall not tamper with the prosecution witnesses.
 - (c) They shall not threat the complainant, his family members, or any witness.

- (d) They shall not take the law in their hands for removing encroachment, if any, remained on the spot of the incident.
- (iii) Criminal application No.3299 of 2022 to assist the learned APP is also allowed.

(S. G. MEHARE, J.)

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vmk/-