

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

CRIMINAL BAIL APPLICATION NO. 164 OF 2022

Abutalah Jahangir Sindagikar And Anr ...Applicants
Versus
State Of Maharashtra ...Respondent

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Mr. Ritesh Thobde i/by Sagar Tambe, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 3rd OCTOBER, 2022

PC :

1. This is an bail application in connection with C.R. No. 640 of 2021 registered with Faujdar Chawdi Police Station for offences punishable under Sections 307, 323, 506 read with 34 of the Indian Penal Code (for short "IPC") and Sections 4 and 25 of the Arms Act and Sections 37(1)(a), 135 of the Maharashtra Police Act. The FIR was registered on 14.09.2021. Investigation is completed and charge-sheet is filed.

2. The case of the prosecution is that there is dispute relating to the property between brothers. The incident had occurred on 13.09.2021. The applicant No.1 is the son of

applicant No.2. One of the injured Bandagi Husenbasha Sindagikar is the brother of applicant No.2 and the other injured Mehboob Bagwan is the nephew of Bandagi Sindagikar. The applicant No.1 had allegedly caught hold of hand of the injured Bandagi Sindagikar and the applicant No.2 has allegedly instigated the assault. Accused No.3 Zaid assaulted injured with sword. The statement of injured Bandagi Sindagikar was subsequently recorded under Section 164 of Cr.P.C. on 04.10.2021 which varies from the FIR. In the said statement, role of assault is attributed to Zaid and applicant Nos.1 and 2. Anticipatory bail preferred by Abubakar Jahangir Sindagikar was allowed by Sessions Court vide order dated 24.11.2021.

3. Learned Advocate for applicant submitted that there are no antecedents against the applicants. Both the applicants are in custody from 14.09.2021, further custody is not necessary. Whereas the learned APP submitted that the offence is of serious nature. The injury certificate issued by Civil Hospital refers to injuries suffered by two injured persons. The injured were assaulted by weapon.

4. From the tenor of the FIR and other documents it is apparent that there is dispute relating to the partition of the

property between accused and the first informant. The accused and the injured person are related to each other. Incident dated 13.09.2021 had occurred while talks of share in the property were in progress. There are no criminal antecedents against the applicants. There is variation in the statement of the complainant recorded under Section 164 of the Cr.P.C. The said statement was recorded on 04.10.2021. Applicants are in custody for substantial period of time. Charge-sheet is filed. In the light of factual aspect of the matter, bail can be granted to the applicants on certain terms and conditions. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No.164 of 2022 is allowed;
- (ii) The applicants are directed to be released on bail in connection with C.R. No. 640 of 2021 registered with Faujdar Chawdi Police Station, on executing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants are permitted to furnish cash bail in the sum of Rs. 25,000/- for a period of eight weeks.

- (iv) The applicants shall not tamper with the evidence.
- (v) The applicants shall not threaten the injured persons and other witnesses.
- (vi) The applicants shall stay out of the jurisdiction of Faujdar Chawdi Police station till further orders.
- (vii) The applicants shall attend the trial Court regularly on the date of hearing of this case unless exempted by the case.
- (viii) The applicants shall furnish the details of place of residence to the Investigating Officer.
- (ix) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)