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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1609 OF 2022

Sumit Suresh Durge

...Applicant

vs.

The State of Maharashtra

...Respondent

WITH

BAIL APPLICATION NO.1615 OF 2022

Suresh Shivram Durge

...Applicant

vs.

The State of Maharashtra

...Respondent

....

Mr. Ajinkya M. Udane, for the Applicants in BA/1609/22 and BA/1615/22.

Mr. A. A. Palkar, APP, for Respondent/State.

....

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 24 NOVEMBER 2022

P.C. :

These applications are filed under Section 439 of Cr.P.C. by the aforesaid Applicants who are facing trial in Sessions Case No. 1039 of 2021 pending on the file of Additional Sessions Court Pune for offences under Sections 307, 323, 504, 506 read with 34 of Indian Penal Code.

2. Heard Mr. Udane, learned Counsel for the Applicants and

Mr. Palkar, learned APP for the State. I have perused the records and considered the submissions advanced by learned Counsel for respective parties.

3. The case of the prosecution in brief is that on 2 September 2021, the Applicants assaulted Avinash Phalke, the husband of the complainant Swati Phalke, by means of iron rods, kicks and blows.

4. The records indicate that the relationship between the Applicants and the family of the complainant was strained. The Applicants had filed a complaint against the injured, for which reason he was arrested and subsequently released on bail. It is alleged that the Applicants had assaulted the injured Avinash because of the previous enmity and mainly for the reason that he was released on bail.

5. The medical certificate prima facie reveals that the injured has suffered fracture of humerus and ribs and injuries on upper lib, chin and occipital region. The injury on occipital region was not of grievous nature.

6. The material on record does not prima facie indicate that the Applicants had intended or attempted to commit murder of the injured. Hence, prima facie, the applicability of Section 307 IPC appears to be doubtful.

7. The Applicants are in custody since 4 September 2021. It is stated that the charge is not yet framed. Considering the large pendency, there is no possibility of the trial being concluded in immediate future.

8. Considering the above facts and circumstances, both the applications are allowed on following terms and conditions :-

- (i) The Applicants, who are facing trial in Sessions Case No. 1039 of 2021 pending on the file of Additional Sessions Court Pune, are ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount ;
- (ii) The Applicants shall report to Ranjangaon Police Station, Shirur, Pune, once in two month on every 1st Monday between 11.00 a.m. to 02.00 p.m. until further orders;
- (iii) The Applicants shall not interfere with the complainant, injured Avinash and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicants shall keep the Trial Court informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

- (v) The Applicants shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
- 9. Both bail applications are disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)