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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 996 OF 2023

Jaffar Chhotu Alias Chhotumiya Kureshi

Alias Jafar Chotu Bepari

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH

BAIL APPLICATION NO. 1001 OF 2023

Tamin Salman Saudagar Alias

Mohammand Tamim Abdulsalam

Saudagar & Anr.

... Applicants

V/s.

The State of Maharashtra

... Respondent

WITH

BAIL APPLICATION NO. 1092 OF 2023

Atif Rajjak Bepari

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Nitin Gaware Patil a/w Mr. Anandmaya Dhorde
and Mr. Arif Qureshi a/w Mr. Abhishek D. Nagode, for
the Applicant.

Mrs. Veera Shinde, APP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 13, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') in connection with

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C.R. No.386 of 2022 registered with Junnar police station, Pune for offences punishable under Sections 143, 145, 147, 148, 149, 307, 323, 324 and 506 of the Indian Penal Code (for short 'IPC') and under Sections 5(a), 5(b), 9 and 11 of Animal Protection Act.

2. According to prosecution, on 25 November 2022 at 7:20 pm the informant saw a vehicle bearing registration No.MH-14-KA-2497 and heard sounds of animal from the said vehicle while going from Godre village. Informant followed the said vehicle, thereafter, nearby Mutha school area 4 to 5 persons restrained the informant and asked as to why he is following the said vehicle. Considering the situation, he immediately called police and rescued himself to a safer place. However, on the way near Mahadev Temple, Jagmata chowk, 25 to 30 people armed with iron pipe, iron rods, knives and other sharp weapons surrounded him and, one of them, co-accused Majid Qureshi hit the informant on his head, co-accused Arbaz Qureshi attacked the friend of the informant with a knife, however he succeeded in saving himself. Thereafter, co-accused Atiq Qureshi assaulted the informant by iron rod on his hand. After the incident, some people gathered on spot and rescued the informant. The informant registered report against applicants and other co-accused.

3. The applicant in Bail Application No.996 of 2023 was arrested on 21 December 2022, the applicant in Bail Application No.1092 of 2023 was arrested on 29 November 2022 and applicants in bail application No.1001 of 2023 were arrested on 6th and 7th December 2022.

4. The investigating agency carried out investigation and after completion of investigation filed charge sheet against accused persons/applicants. Applicants have, therefore, filed an application under Section 439 of Cr.P.C. seeking bail before learned Sessions Judge, which came to be rejected. Aggrieved thereby, applicants have filed present three applications.

5. On perusal of first informant report (F.I.R.), statement of three eye-witnesses and injury certificate, prima facie, it appears that in the report specific role is attributed to accused Nos.1, 2 and 3. No specific role is attributed to applicants. From the material on record, it prima facie appears that applicants along with 25 to 30 persons were part of unlawful assembly. Prima facie, on perusal of injury certificate, it appears that apart from injury on occipital region can be attributed to other co-accused. Rest of the injuries are simple in nature. There is no recovery of weapons from the accused.

6. Learned APP submitted that applicants have previous similar incident to their discredit.

7. Applicants have made out prima facie case at this stage. Hence, relief under Section 439 of Cr.P.C. can be granted. In the facts of the case, there are antecedents allegation of commission of similar offences by applicants, applicants have, therefore, made out a case for grant of bail under Section 439 of Cr.P.C. Hence, following order is passed:

- a) The application is allowed.
- b) Applicants be released on bail in C.R. No.386 of 2022

registered with Junnar police station, Pune for offences punishable under Sections 143, 145, 147, 148, 149, 307, 323, 324 and 506 of IPC and under Sections 5(a), 5(b), 9 and 11 of Animal Protection Act, on furnishing P.R. Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount.

c) Applicants shall mark their attendance with the concern police station on first Saturday of each month between between 11:00 am to 2:00 pm till conclusion of trial.

d) Applicants shall remain present before the trial Court on each date unless exempted by the Sessions Court.

e) Applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

f) Applicants shall, at the time of execution of the bond, furnish their addresses and mobile numbers to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

8. All three bail applications stand disposed of in above terms.
No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per orders dated 9 August 2023 passed in IA/2593/2023 & IA/2596/2023 to correct the names of applicants in BA/996/2023 & ABA/1001/2023. The corrections are shown in italicize.