

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3090 OF 2011

- 1) Datta s/o Harishchandra Tahakik,
Age-45 years, Occu:Agriculture,
R/o-Ladjalgaon, Tq-Shevgaon,
Dist-Ahmednagar,
- 2) Rajendra @ Baban s/o Babasaheb
Waghmare,
Age-40 years, Occu:Agriculture,
R/o-Mungi, Tq-Shevgaon,
Dist-Ahmednagar,
- 3) Nitin s/o Manohar Kakde,
Age-45 years, Occu:Agriculture,
R/o-Bodhegaon, Tq-Shevgaon,
Dist-Ahmednagar.

...APPLICANTS.

VERSUS

The State of Maharashtra.

...RESPONDENT.

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Smt. Sadhana S. Jadhav Advocate for
Applicants.

Shri.N.H. Borade, A.P.P. for Respondent.

Shri.S.S. Jadhavar Advocate for Complainant.

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CORAM: T.V. NALAWADE, J.

DATE : 29TH JULY, 2011

PER COURT :

1. This Application is filed for bail in C.R. No.153 of 2010 registered in Shevgaon Police Station, Dist-Ahmednagar, for the offences punishable under Sections 307, 452, 337, 153, 147, 148, 149, 324, 504, 506, 427 of the Indian Penal Code and Sections 37(1), 135 of the Bombay Police Act. The papers of investigation were made available. Advocate Shri. Jadhavar was allowed to assist the A.P.P. Both the sides are heard.

2. The crime is registered on the basis of report given by one Anil Kundlik Ghortale. The incident took place at about 1.45 to 2.00 hours on 5th November, 2011. He has made allegations that the Applicant no.1 & 2 and other persons entered his house in the night time and they started assaulting him with weapons like iron bar, wooden

log and stone. They were saying that the complainant was unnecessarily getting involved in the politics. Allegations are made against one Sunil that he tried to hit the complainant with stone by saying that he would finish the complainant, but brother of complainant, Ashok intervened and he was saved. Some other members of the family of the complainant were injured in the incident. Allegations are made that attempt to finish the complainant was made by these persons. Names of Applicant Nos. 1 and 2 are mentioned but the name of Applicant No.3 is not mentioned in the F.I.R. as the person who entered the house of the complainant. There are allegations against Applicant No.3 that due to his instigation, the other persons entered the house of the complainant and assaulted him.

3. The police papers show that there are statements of some witnesses recorded on 8th December, 2010 to show that Applicant No.3 Nitin

was present outside of the house and the other Applicants, after leaving the house of the complainant, had talked with Nitin.

4. There are as many as six injury certificates. Anil sustained one grievous injury. Other five persons were injured but the opinion is not given as to whether they sustained simple injury or grievous injury. There were injuries like contusion, abrasion, swelling etc. on the persons of other injured witnesses.

5. The A.P.P. submitted that against Applicant No.3 - Nitin, as many as five other crimes are registered. One crime was registered under Sections 394, 323 etc. of the I.P.C., one was registered under Section 325, 324 etc. of I.P.C., one was registered under Section 326, 143 etc. of I.P.C. The A.P.P. submitted that in view of this criminal record, bail may not be granted to Applicant No.3.

6. In view of the aforesaid record and the fact that the statements of witnesses against Applicant No.3 Nitin were recorded very late, this Court holds that bail can be granted to Nitin also. In view of the nature of allegations against Applicant No.1 and Applicant No.2 and nature of injuries sustained by the witnesses and further the political rivalry, this Court holds that bail needs to be granted to the Applicant Nos. 1 and 2 also. It was pointed out that application for anticipatory bail filed by the Applicants was rejected. But this circumstance cannot come in the way of the Applicants to get the bail.

7. Criminal Application is allowed. All the Applicants i.e. Applicant No.1 - Datta s/o Harishchandra Tahakik, Applicant No.2 - Rajendra @ Baban s/o Babasaheb Waghmare and Applicant No.3 - Nitin s/o Manohar Kakde, are to be released on bail in C.R. No.153 of 2010 registered in

Shevgaon Police Station, Dist-Ahmednagar, for the offences punishable under Sections 307, 452, 337, 153, 147, 148, 149, 324, 504, 506, 427 of the Indian Penal Code and Sections 37(1), 135 of the Bombay Police Act, on their furnishing P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand), each. They are not to tamper with the prosecution witnesses. They are not to commit similar offence. If they commit similar offence, their bail is liable to be cancelled.

[T.V. NALAWADE, J.]