

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 2246 OF 2015.

**YUVRAJ BHILA PARDESHI & ORS.
VERSUS
THE STATE OF MAHARASHTRA.**

Appearance =>

Mr. Amol Sawant, Advocate for the Applicants.

Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State of Maharashtra.

Mr. N.L. Chaudhari, Advocate h/for Mr. Sachin Salgare, Advocate for First Informant.

CORAM : V.M. Deshpande, J.

DATE : 10th June, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of anticipatory bail, in connection with CR No. 27/2015 registered with Police Station, Deopur Taluka & District – Dhule for the offences punishable under Section/s 307, 394, 363, 120(B), 323, 504, 506 read with 34 of the Indian Penal Code.

[2] Heard Mr. Amol Sawant, Advocate for the Applicants, Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State and Mr. N.L. Chaudhari, Advocate h/for Mr. Sachin Salgare, Advocate for First Informant.

[3] First Information Report is lodged by Amol Ramkrushna Rane on 27th March, 2015. Statement is made before this court that the first informant – Amol has patched-up his dispute with the present Applicants and in fact, they have already filed Petition for quashing the First Information Report before the Division Bench of this Court and it is registered as Application No.2357/15 and it is still pending.

[4] I have gone through the First Information Report from which, it appears that there was dispute in respect of some immovable property between the first informant – Amol and applicant No.1 – Yuvraj. Injury certificate shows that the first informant has suffered fracture to his knee. In that view of the matter the allegations made against the present applicants is substantiated that he was assaulted.

[5] Question is, whether the offence punishable under Section 307 of the Indian Penal Code is prima facie attracted or not.?

The location of the injury in the nature of fracture is not on vital part. Consequently, if the First Information Report is scanned properly, it is crystal clear that applicant No.1 – Yuvraj has prevented one unknown person from giving any blow of gupti. Thus, it is crystal clear that at least prima facie, there was no intention on the part of applicant nos. 1 and 2 to kill Amol.

[6] It is no doubt true that in order to attract offence punishable under Section 307 of the Indian Penal Code, injury is not essential. What is parameter concerning case of the prosecution under Section 307 of the Indian Penal Code is the intention on the part of the assailant. In view of the act of Yuvraj, it is crystal clear that surely at that time, there was no intention to kill the first informant.

[7] In the said backdrop subsequent act on the part of the first informant and the present applicant assumes important by compromising their dispute and by filing an application by quashing the First Information Report before the Division Bench of this court, which is still pending.

[7] In that view of the matter, there is prima facie case in favour of the applicants for grant of anticipatory bail. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) In the event of arrest, Applicant No.1 – Yuvraj Bhila Pardeshi and Applicant No.2 – Vinod Ramesh Thorat shall be released on anticipatory bail on they executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] each with one solvent surety in the like amount, in connection with CR No. 27/2015 registered with Police Station, Deopur Taluka & District – Dhule for the offences punishable under Section/s 307, 394, 363, 120(B), 323, 504, 506 read with 34 of the Indian Penal Code.

(iii) The Applicants shall attend Police Station, Deopur Taluka & District – Dhule twice in a week, preferably on every Tuesday and Sunday and they shall remain present there between 3.00 p.m to 5.00 p.m.

(iv) With this Criminal Application is allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)