

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2982 OF 2015

Sadashiv s/o Vithoba Ikhe & Ors.

.... APPLICANTS

V E R S U S

The State of Maharashtra & Ors.

.... RESPONDENTS

.....

Mr. S.S.Rathi, Advocate for Applicants.

Mr. U.S.Mote, A.P.P. for R.No. 1 – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 7th JULY, 2015

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PER COURT :

1. This is an application for grant of anticipatory bail since the applicants are apprehending their arrest in connection with Crime No. 50/2015 registered with Bori police station, District Parbhani for the offences punishable u/s 307,326,324,504,506,143,147,148,149,109 of the Indian Penal Code and u/s 135 of Bombay Police Act.

2. Heard Mr. S.S.Rathi, learned counsel for the applicants and Mr. U.S.Mote, learned A.P.P. for respondent No. 1 – State.

3. Dispute was going on in respect of the possession over G.No. 565 situated at Kausadi between two groups. Both the groups are claiming that they are the tenant over the said disputed piece of land and the cases were pending before the competent Court.

4. The incident has occurred on 23/04/2015. It was a free fight between two groups. In the said, one Sudam Ikhe, who is uncle of present applicant No.1, lost his life. Therefore, F.I.R. was lodged against 23 named persons and 20 unknown persons on the very same day vide Crime No. 47/2015. Various persons were arrested in the said crime and some are released on bail.

5. Be that as it may. For the same incidence on 28/04/2015, Rafiuddin Samiuddin Khatib filed F.I.R. No. 50/2015 against present applicants and others. It is to be noted that first informant Rafiuddin Samiuddin Khatib and the other injured Nasiruddin are already accused persons in Crime No. 47/2015.

There is delay of 5 days in lodging F.I.R. No. 50/2015. Further, injury certificate is made available to this Court by the learned A.P.P. today. Injury certificate of Rafiuddin Samiuddin Khatib shows that he is having two contused lacerated wound and both injuries were simple in nature, whereas other injured Nasiruddin is having one contused lacerated wound and abrasion on hand and the Doctor who has examined them, found that those injuries are simple in nature. Looking to the fact that in the same

incident, cross complaints are filed and prima facie it appears that the present applicants were not aggressors coupled with the fact that the injuries suffered are simple in nature, the application of the applicants can be considered favourably. In that view of the matter, I propose to pass the following order :

- (i) Present Criminal Application is hereby allowed.
- (ii) In the event of arrest in connection with Crime No. 50/2015 registered with Bori police station, District Parbhani for the offences punishable u/s 307,326,324,504, 506,143,147,148,149,109 of the Indian Penal Code and u/s 135 of Bombay Police Act, applicant No. 1 Sadashiv s/o Vithoba Ikhe, applicant No. 2 Ganesh s/o Bapurao Raut and applicant No. 3 Gopal s/o Namdeo Khaire be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety by each of them.
- (iii) Present applicant Nos. 1 to 3 shall attend Bori police station, District Parbhani once in a week preferably on every Sunday between 3.00 – 5.00 p.m. till the charge sheet is filed.

(iv) Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 2982.2015