

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.537 OF 2015

Shekhar Bhagwan Gore & Ors. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.A.P. Mundargi, Sr.Adv. i/b Mr.R.s. Kate for the Applicants

Ms.R.V. Newton, APP, for Respondent – State

Mr.M.S. Mohite i/b Mr.Vinayak Patil for Complainant

Mr.P.N. Ingale, Investigating Officer / PSI, Dahiwadi police station, Satara – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JUNE 8, 2015**

P.C.:

1. This application is moved by 4 applicants/accused as they are apprehending arrest in C.R. No.41 of 2015 which was registered at Dahiwadi police station, Satara on 20.3.2015 for the offences under section 307, 395, 397, 452, 427 of the Indian Penal Code. One Shekhar Gandhi is the informant. He was injured in the assault.

2. As per the case of the prosecution, the two political groups which are led by 2 brothers i.e., the present applicant/accused No.1 Shekhar Bhagwan Gore and one MLA Jaykumar Gore, were involved in an election of one cooperative society in Taluka Maan, District Satara. These 2 groups are warring groups. The 2 leaders alongwith their followers in large numbers were present on 19.3.2015 at around 3pm at village Andhali at the time of election. At that time, the Secretary of the society declared the entire election

proceeding as cancelled and this flared up verbal altercations between the two groups. The leaders of these two groups were present at the time. However, they could not control their followers and the mob became violent and there was a free fight between the two groups. The police officer S.B. Kavde gave information to the police as the police property was damaged and some police personnel were injured. The offence was registered at C.R. No.39 of 2015 on the same day i.e., on 19.3.2015 with the Dahiwadi police station, Satara under sections 143, 147, 148 149, 332, 333, 326, 337, 353, 504, 506, 427 and 188 of the Indian Penal Code; under sections 3 and 4 of Prevention of Damage to Public Property Act; under section 4(25) and 30 of the Indian Arms Act and also under section 37(1)(3) and 135 of the Mumbai Police Act.

3. After this incident, as per the case of the prosecution, the applicant/accused No.1 and his other followers including other applicants/accused, went to the shop of the complainant Shekhar Gandhi at Dahiwadi and the applicant/accused No.1 instigated the co-accused to assault the informant. They all assaulted him and ransacked the articles, took away the gold ring which was on his person, abused him, damaged the monitor and the CCTV and went away. Hence, the present complaint was lodged.

4. Learned Senior Counsel for the applicants/accused has submitted that this is a false case against the applicants/accused and the other accused due

to political rivalry. He pointed out that as per the case of the prosecution as it is taken, the incident of violation of law and order and assault has taken place on 19.3.2015 at 3pm at Andali and thereafter, the alleged incident of assault and robbery has taken place at Dahiwadi i.e., in the other village on the same day at around 4 pm. The learned Senior Counsel pointed out that in C.R. No.39 of 2015, the name of the present applicant/accused Shekhar Gore is mentioned at serial No.2 and the names of the other two persons who are the relatives of the present applicant/accused are also mentioned as they were present when the riot like situation took place at village Andhali when the election was cancelled. He further submitted that if at all as per the case of the prosecution, even though the monitor of the C.C.T.V. was damaged by the assailants, yet, there should have been a back-up and the police should make a specific statement about the presence of the applicant No.1 and the complainant in his shop. He further submitted that there is no such incident of robbery of ring and the cash from the shop of the complainant.

5. The learned Prosecutor while opposing the application relied on the statements of the witnesses, the injury certificate of the informant. She submitted that the applicant/accused No.1 is having criminal record and as on today, nine cases are registered and pending against him. One case is pending against the applicant/accused No.2 Tejas and two cases are pending against the applicant/accused No.4 Durgadas. She pointed out that the police have seized CCTV record and they have made a CD of the footage which was recorded in the camera. She submitted that as per the instructions of

the Investigating Officer that both the applicant/accused No.1 alongwith his followers and the complainant are seen in the CCTV camera in his shop.

6. The learned Counsel for the Intervener, the original complainant, has produced printouts from the CCTV camera and submitted that the applicant/accused alongwith his followers was present in his shop. The articles and furniture in his shop were damaged. He was beaten up with baseball sticks and also robbed.

7. Apparently the two offences were committed within short time. From the police record, it appears that the first one was at Andali and the second was in village Dahiwadi on the same day i.e., 19.3.2015. It appears both the leaders of two groups were present when the first incident of assault and riot had taken place wherein a police officer is the informant. The learned Senior Counsel tried to put it that it is not possible for the applicant/accused No.1 to remain present immediately on the same day within a gap of one hour at the shop of the informant day and commit such offence. The distance as informed to this Court between the two villages is of 10 kms. Prima facie, on a perusal of both the complaints and especially on perusal of the injury certificate of Shekhar Gandhi, it appears that the second incident has taken place in the shop of the complainant. The injury certificate discloses that he was examined and treated on 19.3.2015 at around 6.30 pm and the history given by him was of assault by wooden sticks. He has sustained four injuries and out of which one is a head injury, which is mentioned as grievous injury.

The printouts which are now shown prima facie confirm the presence of the applicant/accused No.1 in the shop of the complainant. The complainant might be present at the time of the first incident and he may be an accused in the same incident. However, it is a different case and therefore, the prima facie material is to be read independently against the applicants/accused. The applicant/accused No.1 is having criminal antecedents. One of cases under section 307 and the other one is under section 304 of the Indian Penal Code pending against him. The applicant/accused No.1 is also having a criminal antecedent and his name is taken as an assailant. A specific role as as assailant is attributed to the applicant/accused No.1 and also to applicant/accused No.2.

8. In view of the above, I am not inclined to grant pre-arrest bail to the applicant/accused Nos.1 and 2 viz., Shekhar Gore and Tejas Pawar. Accordingly, this application is rejected qua applicant/accused Nos.1 & 2. However, the case of the applicant Nos.3 and 4 i.e., Avinash Arun Jadhav and Durgadas Radhakrishna Joshi is on a different footing as their names are not mentioned and no specific role is attributed to them. Though there is a criminal record against the accused No.4, his name is not mentioned in the FIR. I am therefore, inclined to grant pre-arrest bail to applicant/accused Nos.3 and 4 – Avinash Arun Jadhav and Durgadas Radhakrishna Joshi on the following terms:

- i) In the event of arrest, the applicant/accused Nos.3 and 4 viz., Avinash Arun Jadhav and Durgadas Radhakrishna Joshi shall be released on bail upon furnishing P.R. Bond in the sum of Rs.15,000/- each, with one or two sureties in the like amount;
- ii) The applicant/accused Nos.3 and 4 shall not tamper with the evidence;
- iii) The applicant/accused Nos.3 and 4 shall not indulge into any kind of offence while on bail;
- iv) The applicants/accused Nos.3 and 4 shall cooperate with the Investigating Officer and attend the concerned police station on every Monday and Thursday, between 5pm to 6pm, for a period of one month i.e., upto 6.7.2015.

8. Anticipatory Bail Application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)