

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 152 OF 2015

Machindra Yalappa Ghorpade. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 253 OF 2015

1 Rajendra Sahebrao Masal.
2 Sandip Maruti Masal.
3 Shankar Malhari Shinde. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prashant S. Hagare, advocate for Applicants.

Ms. P.P. Shinde, APP for State in ABA 152/15.

Mr. Arfan Sait, APP for State in ABA 253/15.

Mr. Ranjeet M. Pawar, advocate for intervenor.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 11, 2015

P.C.:

1 Heard the learned Counsel for the applicants, learned Counsel
for intervenor and the learned APP for State.

2 These are applications under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 408 of 2014 registered at Baramnati Taluka Police Station for offence punishable under Section 307, 324, 323, 143, 147, 148, 149, 504, 506, 384, 354(B) of the Indian Penal Code and Section 4/25 of the Arms Act.

3 It is the case of the prosecution that on 19/1/2014, there was community meeting of Vaidu Community. The meeting had assembled to put an end to the quarrels between the members of the community. There was objection to the people from the village attending the said meeting. They wanted to resolve the dispute within the community itself. It is alleged that at about 10 a.m. when the complainant and others were in front of the house of Maruti Hanumant Shinde, a request was made to put an end to the dispute within the community. The present applicants alongwith others were enraged. They had assaulted the members assembled there with

swords, iron rods, stick and other deadly weapons. On the basis of a report of Rahul Kulal, C.R. No. 408 of 2014 was registered.

4 Perused the papers of investigation. Upon perusal of the the injury certificate, it appears that except Hanumant Shinde, all other persons had received simple injuries. The incident has occurred on the spur of the moment in the course of the meeting of the community.

5 Learned APP submits that the applicants herein had formed an unlawful assembly and that they were armed with deadly weapons and have assaulted the victims as well as the complainant. It is further submitted by the learned Counsel for the complainant that in the supplementary statement dated 28/12/2014 it was mentioned that the accused had outraged modesty of female members of the village and they have thrown chilly powder in the eyes of the complainant and other injured.

6 It is clear that all the injured have received simple injuries in the form of blunt trauma. Rahul has sustained CLW on his forehead which appears to be simple injury. In fact, the community meeting was held to pacify the relations. It cannot be said that there was any pre-meditation.

7 The learned Counsel for the applicants submits that by an order dated 22/1/2015, the applicants therein have been granted pre-arrest bail by this Court (Coram : Smt. Sadhana S. Jadhav, J). The applicants are rightly claiming parity by virtue of doctrine of parity and for the observations made in Order dated 22.1.2015 passed in ABA 27/2015 with ABA 28/2015, the applicants deserve pre-arrest bail.

8 The learned Counsel for the complainant submits that the complainant is having threat perception. In view of this, the present applicants shall not reside in Zargadwadi for a period of four weeks from today.

9 These observations are prima facie in nature. The same shall not be considered at the time of deciding the application for discharge or for quashing of FIR or at the time trial.

10 Hence, following order is passed.

ORDER

- (i) The applications are allowed.
- (ii) In the event of arrest in Crime No. 408/2014 registered at Baramati Taluka Police Station, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall not reside in Zargadwadi for a period of four weeks from today.

11 Both the applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)