

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 570 OF 2015

1.	Rahul Sahebrao Jadhav	
2.	Pravin Sukhdeo Jadhav	
3.	Balu Tukaram Jadhav	
4.	Kiran Dnyaneshwar Jadhav	... Applicants
	Vs.	
	The State of Maharashtra & Anr.	... Respondents

Mr. Subhash Hulyalkar, Advocate for the applicant.

Mr. D.P. Adsule, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 22, 2015**

P.C.:

This Application is moved for pre-arrest bail under section 438 of the Criminal Procedure Code, as the applicants/accused are facing charges under section 326 in C.R. No. 534 of 2014 registered at Chakan Police Station, Pune.

2. It is the case of the prosecution that on 3rd November, 2014 in the morning, Amol Govind Tope, brother of the complainant was proceeding on his motorcycle, at that time, the applicants/accused and co-accused assaulted him and he fell down in injured condition. The complainant Ajit Govind Tope arrived at the spot. The injured was shifted to the hospital and he was treated there. Pursuant to this, FIR was registered on 3rd November, 2014 against the applicants/accused.

3. The learned counsel for the applicants/accused has submitted that the names of the applicants/accused were transpired in the statement of injured, which was recorded on 30th January, 2015 and thereafter on the next day, i.e., 1st February, 2015 the police have filed charge sheet. It is further submitted that the applicants/accused do not have any criminal antecedents and applicant/accused Pravin Jadhav is working in the Bank. It is further submitted that the applicants/accused have assaulted the injured with fist and kicks blows and no specific role is attributed to them. He submitted that other two accused Nilesh Jadhav and Shrikrushna Chandrakant Kad were arrested and they were granted bail by this Court by its order dated 27th March, 2015.

4. Learned APP submitted that the applicants/accused are absconding since 3rd November, 2014 and they are not traceable inspite of the efforts made by the police. He submitted that the police have filed an Application under section 84 of the Criminal Procedure Code before the learned Magistrate on 15th June, 2015. Learned APP relied on the injury certificate of Amol Tope.

5. Perused the FIR and the orders passed by this Court earlier on 25th March, 2015 and 27th March, 2015 in Bail Application No. 488 of 2015 of co-accused. These accused were arrested and released on bail by this

Court and at the time of passing the order, this Court has observed that though the incident occurred on 3rd November, 2014, why the statement of the injured was not recorded till 30th January, 2015. On query made by this Court, lame excuses are given by the Investigating officer for such delay. However, the benefit of this delay cannot be given to the present applicants/accused because the injured has taken the names of these accused along with co-accused. He has mentioned that these accused along with co-accused were armed with weapons and they all assaulted him. The specific role of assaulting the injured with any weapon though is not given to either of the applicants/accused, yet it is specifically mentioned by him that they were armed with weapons and they assaulted him with kicks when he fell down. Moreover, the injury certificate discloses that it was a brutal assault wherein he has sustained 5 grievous injuries on his vital parts and other 4 are simple injuries. It is also to be noted that applicants/accused are absconding since November, 2014. Other two accused were taken in custody and were released on bail. Hence, the Application for pre-arrest bail is rejected.

(MRS.MRIDULA BHATKAR, J.)