

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.911 OF 2015

Siddharth Bhaskarrao Gundage and Others ... Applicants

vs.

The State of Maharashtra ... Respondent

Mr. Abhishek Yende, for the Applicants.

Mr. S.S. Pednekar, APP for Respondent – State.

Mr. Rahul Kate, for the Complainant.

IO. Mr. Y.S. Hande (API), Dahiwadi police station present.

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

DATE: **JULY 14, 2015**

P.C.:

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offences punishable under Sections 395, 397, 307, 326 and 324 of the Indian Penal Code and Section 37(1)(3) read with 135 of the Bombay Police Act in C.R. No. 87 of 2015 registered with Dahiwadi police station, Pune. One Hanumant Khande has given the first information report.

2. It is the case of the prosecution that the complainant and the present applicants/accused were having dispute over the land. On 13th June, 2015 when the complainant was spreading *dabar* on the front side of the shop, the applicants/accused and their associates arrived there. They all were armed with weapons viz. sword and sickle. They assaulted the informant, his son and the other persons. While going away, they robbed Rs. 15,000/- from the hotel.

3. The learned counsel for the applicants/accused has submitted that the description of injuries mentioned in the first information report does not correspondent with the injury certificate of the injured persons. He submitted that a dispute in respect of a land was going on between these two parties. The applicants/accused have also filed a civil suit in that respect. He submitted that the civil suit was agitated before the civil Court and the civil Court has granted status-quo in the said mater. He submitted that a complaint was also filed by one of the applicant against the present complainant under the Atrocities Act. There are cross complaints. On 13th June, 2015 after the incident, the applicants/accused have also sustained injuries due to assault. It is prayed that they be protected.

4. The learned prosecutor opposed the application. He relied on the injury certificates of Anil Khande, Nitin Galande, Hanumant Khande and Satish Galande. He submitted that Satish Galande has sustained a fracture of the skull bone due to assault by applicant/accused No. 1 Siddharth Gundage. The learned prosecutor and the learned counsel for the complainant opposed the application. It is further submitted that three cases are pending against applicant/accused Nos. 1 Siddharth Gundage and No. 2 Samarth Gundage and one case is pending against the applicant/accused No. 4 Siddharth Kharat. Hence, the application be rejected.

5. Perused the first information report and the injury certificates of the complainant and the witnesses. There was a cross complaint. After this assault, the persons from both the sides are injured. Perused the injury certificate of the applicants/accused. The injury sustained to the informant Hanumant, Anil Khande and Nitin Galande are simple injuries and Satish Galande had 3-4 simple and one grievous injury.

6. Considering the nature of the incident, the nature of

injuries and the previous antecedents against the applicant/accused Nos. 1 Siddharth Gundage and No. 2 Samarth Gundage, I am not inclined to grant pre arrest bail to them. However, I am inclined to grant pre arrest bail only to applicant/accused Nos. 3 Mahesh Kharat and No. 4 Siddharth Kharat.

7. Hence, I pass the following under:

- a) In the event of arrest, applicants/accused Nos. 3 Mahesh Kharat and No. 4 Siddharth Kharat be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 30,000/- (Thirty Thousand) each with one or two solvent surety/s in the like amount;
- b) They shall cooperate with the investigating officer and shall attend Dahiwadi police station, Pune once on every Friday in between 4 pm to 6 pm till filing of the charge sheet.
- c) They shall not indulge in any other criminal activity or pressurize the complainant.
- d) The application of pre arrest bail in respect of applicant/accused Nos. 1 Siddharth Gundage and No. 2 Samarth Gundage stands rejected.

8. The learned counsel for the applicants/accused wants to challenge this order before the Supreme Court. Therefore, he prays that interim protection granted by this Court be extended by six weeks.

9. The learned prosecutor and the learned counsel for the complainant opposed the request of the applicants/accused.

10. There was no interim protection granted by the learned Sessions Court. The interim protection granted by this Court, as it was the first date and to facilitate the learned prosecutor to obtain the instructions from the investigating officer. Hence, the prayer of the learned counsel for the applicants/accused is rejected.

11. The application stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)