

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1071 OF 2015

Shri Ravindra Bhalchandra Birnale & Ors. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.U.R. Mankapure for the Applicants
Ms.R.V. Newton, APP, for Respondent – State

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

DATE: **JULY 31, 2015**

P.C.:

1. The applicants/accused are apprehending arrest in C.R. No.131 of 2015 registered with Laxmipuri police station, Kolhapur for the offences punishable under sections 449, 427, 323, 504, 506, 507, 143, 147, 149 of the Indian Penal Code and under section 135 of the Mumbai Police Act. It is the case of the prosecution that the complainant, namely, Sumit Suresh Dhulani, was running a grocery shop. On 30.6.2015, accused No.1 Ravi Birnale sent his man to the shop of the complainant at around 5.30 pm and demanded money of Rs.3,000/-. At that time, the complainant told him to let the applicants/accused come to the shop and then the accounts could be settled. Thereafter, on the same day, at around 8pm, the applicants/accused alongwith some other persons arrived at the shop. Then there was a verbal altercation between the complainant and the

applicants/accused. They cut off the telephone wire in the shop and started hitting the complainant with cans of tomato sauce weighing 6kg. Accused No.1 Ravi Birnale tried to assault him with glass bottle of tomato sauce of 1 kg. on his head. However, the blow was missed as the complainant was successful in avoiding the same. He ran away and gave the complainant.

2. The learned Counsel for the applicants/accused submitted that except section 449, all the other sections are bailable. She submitted that all the accused are innocent. There are no criminal antecedents. The applicants/accused went there as they were called by the complainant to settle the account of Rs.3,000/-. He submitted that the applicants/accused shall abide by all the conditions to be imposed by the Court.

3. Learned Prosecutor has opposed the application and pointed out that the spot panchanama was carried out in the shop on the next day i.e., 1.7.2015. She relied on the photographs disclosing the broken bottle of tomato sauce lying on the counter and on the floor. She also relied on the injury certificate as the complainant has suffered head injury. She has also pointed out that 2 non-cognisable complaints are registered against the applicant/accused No.1 as threats were given by the applicant/accused No.1 after the registration of this offence, pressurising the complainant to withdraw the complaint.

4. On perusal of the FIR, the spot panchanama and the photographs, it appears that the incident of assault as stated in the FIR has taken place. However, it appears that the applicant/accused No.1 and other persons went to the shop of the complainant. They went there to collect money and it appears that money was not given. There was verbal altercation and then the applicant/accused No.1 and other persons assaulted the complainant. It appears that the attack was not pre-meditated and considering the nature of the injury and as the applicants/accused do not have any criminal antecedents, I am inclined to grant pre-arrest bail on the following conditions:

- i) In the event of arrest, the applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two solvent sureties in the like amount;
- ii) The applicants shall not tamper with the evidence;
- iii) The applicants shall not indulge into any kind of offence while on bail;
- iv) The applicants shall cooperate with the Investigating Officer and attend the concerned police station on every Tuesday, between 5 pm to 7 pm, till filing of chargesheet.

v) The applicants shall stay away from the jurisdiction of the Kolhapur City, for a period of one month from today i.e., till 31.8.2015, except for attending at the concerned police station, after which they shall immediately leave the Kolhapur City.

5. Anticipatory Bail Application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)