

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1309 OF 2015**

Nitin Zenda Vaydande	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Rahul Madan More for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

Mr. U. S. Wagh, PSI from Phusegaon Police Station is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 4th SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 32 of 2015 registered with the Phusegaon Police Station, Satara, for the alleged offences punishable under Sections 307, 143, 148, 149, 324, 504, 506 of the Indian Penal Code, 1870.

3. The incident in question has taken place on 28th March, 2015. With respect to the said incident, there are cross cases filed by both the sides. The reason for assault is a quarrel between their children. The complainant Sanjay Vaydande, has in detail set out the manner in which the assault took place and the persons who assaulted him and others. As far as the present applicant is concerned, the complainant has specifically stated that the present applicant was armed with a sword and he assaulted Dattatraya Shivaji Vaydande on his right thigh and Tanaji Sahebrao Vaydande in his abdomen.

4. Learned Counsel for the applicant states that the applicant is entitled to pre-arrest bail on the ground of parity, inasmuch as Santosh Jagannath Vaydande, Avinash and Datta were granted pre-arrest bail in the complaint lodged by the applicant's side i.e. by Dilip Vaydande. He submitted that the nature of injuries sustained by the applicant's side were also grievous in nature.

5. The learned A.P.P opposes the bail application. She submits that the injury caused to Tanaji Vaydande was a grievous injury and that the said injury was caused by the applicant with a sword.

6. Perused the FIR lodged by the complainant - Sanjay Vaydande. The complainant has assigned a specific role and an overt act to the present applicant, inasmuch as, he has stated that the applicant assaulted Dattatraya Vaydande on his right thigh and Tanaji Vaydande in his abdomen with a sword. The injury certificate of Tanaji Vaydande clearly shows that he had suffered an incised wound on the left lumbar region, lateral to umbilicus. The nature of injury is shown as a grievous injury. The CT of the abdomen shows 'stab on the left hypochondriac region, spleen and mesocolone c'. Pursuant to the said injury caused, Tanaji had to be transferred for further treatment and management. Considering the specific overt act attributed to the applicant, the nature of injury which is grievous in nature and the weapon used, this is not a fit case to grant pre-arrest bail.

7. As far as parity is concerned, the co-accused who have been enlarged on bail, were in another C.R. It is not clear as to the exact nature

of injuries sustained by the injured. Even otherwise, there cannot be parity with the co-accused, who have been enlarged on bail in the above case.

8. Accordingly, the application is rejected and is disposed of.

9. It is made clear, that if an application for regular bail is filed, the same shall be considered on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.