

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1392 OF 2015

1. Rahul Jaywant Kadam .Applicants
2. Sachin alias Sunil Laxmanrao Chavan
3. Dayanand Balasaheb Chavan

v/s.

The State of Maharashtra .Respondent

Mrs.A.A.Agarwal, Advocate, for the Applicants
Mr.Y.M.Nakhwa, APP, for the Respondent – State
Mr.Satyam Nimbalkar i/b. Mr.Rishi Ghorpade,
Advocate, for the Intervener

CORAM : REVATI MOHITE DERE, J.

DATE : 21.09.2015

P.C.

. Heard learned counsel for the applicant, the learned APP for the respondent – State and the learned counsel for the intervener.

2. By this application, the applicants seek pre-arrest bail in connection with C.R. No.126 of 2015 registered with the Jejuri

Police Station, Pune(Rural), for the alleged offences punishable under Sections 143, 147, 148, 149, 395, 307, 323, 324, 504 & 506 of the Indian Penal Code, 1870.

3. The complainant is one Rajesh Kakade. He has alleged that on 23.08.2015 at about 7.00 p.m., he was passing through village Nira, Ahilyabai Holkar Chowk to go to the police station. According to him, he met his friend one Keshav Bandgar and hence stopped near the Chowk. He has alleged that when he was standing at the said chowk, several persons i.e. Dharmraj Chavan, Shivraj Chavan, Himmat Chavan, Akshay Chavan, Viraj Chavan, Shubham Chavan, Rahul Kadam, Aditya Chavan, Ajinkya Chavan and Sachin Chavan from Nira village came to the spot armed with iron pipe, koyta and sickle. He has alleged that on seeing the said persons, he left his Activa scooter and started running. According to

the complainant, Dharamraj and Shivraj ran towards him, and threatened to kill him. Pursuant to the threat, Dharamraj is alleged to have assaulted him with a chopper like blade and all others are alleged to have assaulted with an iron rod. He has alleged that when he started shouting, Viraj came to the spot and tried to intervene. According to the complainant, all the aforesaid persons assaulted Viraj with the aforesaid weapons and by fist and kick blows. According to the complainant, thereafter, when Deepak Kakade, Javed Shaikh, Pramod Pawar, Vikram Pawar intervened, they too were assaulted by all the aforesaid persons. The complainant has alleged that the accused also picked up stones and assaulted the injured. According to the complainant, during the assault, someone pulled his gold chain, weighing 5 gms.

4. Learned counsel for the applicants

submits that as far as the applicant Nos.1 & 2 are concerned, although they have been named in the FIR, no overt act has been attributed to them. She submitted that as far as the applicant No.3 is concerned, he has not even been named in the FIR. According to the learned counsel, the complainant has specifically stated that he was assaulted by Dhananjay and there is a general statement that all the accused assaulted Viraj, Deepak, Javed, Pramod and Vikram. Learned counsel for the applicants further submits that there is a cross case lodged by the applicants' side which was registered vide C.R.No.127 of 2015 as against the present complainant and others. She submitted that in the said C.R., three persons have been injured i.e. Dayanand, Dharamraj and Sadanand.

5. Learned APP opposed the bail application. He submits that the name of the

applicant Nos.1 & 2 is disclosed in the FIR and the name of the applicant No.3 is disclosed in injured - Viraj's statement. He submits that all the aforesaid injured persons i.e. the complainant, Viraj, Deepak, Javed, Pramod and Vikram have received injuries in the said incident. Learned counsel for the intervenor supports the submissions advanced by the learned APP.

6. Perused the papers and the statements of all the injured. The complainant has attributed overt act to some of the accused, who have assaulted him and as far as the assault on other injured is concerned, there is a general statement that all the accused assaulted him and other injured. The statement of injured-Viraj shows that accused Shivraj Chavan assaulted him on his head with a sword as a result of which he fell down and that

thereafter, accused Prithviraj Chavan assaulted him with an iron rod on his left chest and that accused Himmat assaulted him with an iron rod on his back and face. The injured Viraj has further alleged that accused Dharamraj thereafter assaulted him on his face and on his abdomen by kick and fist blows; accused Dayanand Chavan (Applicant No.3) gave a kick blow on his private part and accused Sunil Chavan (Applicant No.2) assaulted him with an iron rod on his back. According to injured – Viraj, when he shouted for help, accused Akshay Chavan and Aditya Chavan came on the spot and assaulted him with knuckle dusters (fighter) on his neck and thereafter, accused Shubham Chavan threw a stone on his head. Peruse the injury certificate of Viraj. The injury certificate of Viraj shows that he has received two injuries, one on his head which is stated to be a grievous injury and one on the left side of his chest which is

stated to be a simple injury. The statement of injured-Deepak shows that accused Himmat Chavan and Akshay Chavan came with iron rods and assaulted him on his back, as a result of which he fell down and thereafter, all the accused assaulted him with fist and kick blows, as a result of which he received injury on his right hand and on his face. The injury certificate of injured Deepak shows that he has sustained an injury on his right eye and on his face, and the said injuries are stated to be simple injuries. As far as injured - Javed, Pramod and Vikram are concerned, all of them have received simple injuries. It appears that there is a cross case filed by the applicants' side, which is registered with the said police station vide C.R.No.127 of 2015 as against the complainant and others. In the said case, three persons have been injured. It appears that the incident has arisen out of a political fall out between the

parties. As far as the applicants are concerned, although the names of the applicant Nos.1 & 2 are disclosed in the FIR, no specific overt act is attributed to them by the complainant. Although, Injured-Viraj has attributed overt acts to applicant Nos.2 & 3, there appears to be no corresponding injuries. Considering the aforesaid facts and the role attributed to the applicants, the applicants are granted pre-arrest bail on the following terms and conditions:

ORDER

(i) In the event of the arrest, the applicants be enlarged on bail on their furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;

(ii) The applicants shall attend the Jejuri Police Station, Pune (Rural) on every Saturday between 10.00 a.m. to 11.00 a.m. till the filing

of the charge-sheet and thereafter, on the 1st Saturday of every month between 10.00 a.m. to 11.00 a.m. till the conclusion of the trial;

(iii) The applicants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;

(iv) The applicants shall inform their latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

All concerned to act on the
authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.