

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1397 OF 2015

1. Shivraj Dattatraya Chavan .Applicants
2. Himmat Hanumantrav Chavan
3. Aditya Vilas alias Dhanaji Chavan
4. Ajinkya Vlias alias Dhanaji Chavan

v/s.

The State of Maharashtra .Respondent

Mr.A.P.Mundargi, Senior Counsel with
Mr.J.J.Bardeskar, 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 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., when 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(Applicant No.1), Himmat Chavan(Applicant No.2), Akshay Chavan, Viraj Chavan, Shubham Chavan, Rahul Kadam, Aditya Chavan(Applicant No.3), Ajinkya Chavan (Applicant No.4) 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 Senior Counsel for the applicants states that with respect to the said incident, the applicants' side has also lodged an FIR/complaint, which is registered vide C.R.No.127 of 2015. He submitted that in the said incident, three persons were injured from the applicants' side i.e. Dayanand, Dharamraj and Sadanand. He submits that applicant Nos.1, 3 & 4 are students and the applicant No.2 is a Software Engineer. According to him, in the said incident, no weapon was used. He relied on certain photographs in support of his submission.

5. Learned APP opposed the bail application. He submits that applicant No.1 Shivraj has been attributed a specific overt act by the complainant Rajesh, in the said incident.

As far as applicant No.2 – Himmat is concerned, he is alleged to have assaulted Deepak with a hockey stick on the right side of his face and applicant No.3 is alleged to have assaulted him on the neck. Learned counsel for the intervenor supports the submissions advanced by the learned APP.

6. Perused the injury certificates and the statements of the injured. It appears that all the applicants have been named in the FIR, however, no specific overt act has been attributed to any of the applicants that they assaulted the complainant. The statement of injured-Viraj shows that Shivraj (Applicant No.1) assaulted him on his head with a sword, after which accused Prithviraj assaulted with an iron rod on his chest; Himmat (Applicant No.2) assaulted on his face; accused Dharamraj is also alleged to have assaulted Viraj on his face and

abdomen with kick and fist blows; accused Dayanand Chavan is alleged to have assaulted on his private part and accused Sunil Chavan is alleged to have assaulted with an iron rod on his back. According to the injured-Viraj, when he shouted for help, Akshay Chavan and Aditya Chavan (Applicant No.3) came on the spot and assaulted him with a knuckle duster (fighter) on his neck and thereafter, Shubham Chavan is alleged to have thrown a stone on his head, as a result of which he became unconscious.

7. Perused the injury certificate of injured-Viraj. Viraj is alleged to have received injuries on his head and the cause of injury is a hard and blunt object and the injury is described as grievous. The second injury is stated to be on the right side of the chest which is simple in nature. It also appears that as far as the injuries alleged to have been

caused by applicant No.2 Himmat is concerned, there is no corresponding injury to Viraj. As far as applicant Nos.3 & 4 are concerned, the injuries alleged to have been caused by them are not borne out in the injury certificate. Prima facie, it appears that an incident did take place, in which the complainant and others received injuries, including grievous injuries. The injury caused to Viraj is a grievous injury, caused on his head and is stated to have been caused due to a hard and blunt object. The possibility of it being caused by a stone cannot be ruled out. The applicant Nos.1, 3 & 4 are students; Applicant No.1 is 21 years old and is studying in the 4th year of B.Sc. (Agriculture) in the college of Agriculture, Baramati; Applicant No.3 is a 3rd year student of Civil Engineering; Applicant No.4 is also a 3rd year student studying in the college of Agriculture, at Phaltan and Applicant No.2 is a Software

Engineer working in Accenture Services Pvt. Ltd.
In cases such as this, where several persons are involved, it is necessary to scrutinize the role of the accused and the injuries alleged to have been caused by them. Considering the role of the applicants and in particular, the fact that they are students, the applicants are granted pre-arrest bail, on the following terms & 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;

(v) The applicants shall not enter the jurisdiction of Jejuri Police Station for a period of two months from today except for the purpose of attending the concerned police station.

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

9. 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.