

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1666 OF 2014

1 Devidas Chaban Tule
2 Balu Sunil Kolpe
3 Vishnu Sunil Kolpe
4 Somnath Sunil Kolpe. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. J.S. Kini i/b. Mr. Suresh Dubey, advocate for Applicants.

Mr. Arfan Sait, APP for State.

PSI M.M. Gaikwad, Lonikand Police Station, Pune.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 16, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicants are apprehending their arrest in
Crime No. 354 of 2014 registered at Lonikand Police Station for

offence punishable under Section 143, 147, 148, 149, 452, 323, 324, 326, 504, 506 of the Indian Penal Code.

3 It is the case of the prosecution that on 1st December, 2014 Govind Tule lodged a report at the police station alleging therein that on 28th November, 2014 at about 9 p.m. Chaban Tule and his two sons Bhausahab Tule and Rohidas Tule and Rahul Choramale were in the process of building a cattle shed adjacent to the boundary of the agricultural land of the complainant. They had brought J.C.B. Machine for excavation. The complainant had requested them to excavate in their own boundary and not to encroach upon the land of the complainant. On that count, there was verbal altercation. Thereafter, both the groups had disbursed to their respective houses. On the same day, at about 11.30 p.m. they heard loud voices outside their house. They came out to enquire into it. At that time, the applicants herein alongwith others were seen armed with axe and iron rods. They were abusing. The complainant had kept the doors of his house open since cattle and sheep were tied just outside the

house. The accused suddenly mounted assault upon the complainant. The family members of the complainant had sustained injuries. The injured were taken to hospital. On the basis of the statement, Crime No. 354 of 2014 was registered at Lonikand Police Station.

4 The learned Counsel for the applicants submit that the females who had been arraigned as an accused in crime No. 354 of 2014 have been protected by way of pre-arrest bail by the Sessions Court vide order dated 19/12/2014. The learned Counsel further submits that on 1st December, 2014 Deepali Bhausaheb Tule had also lodged a report at the police station in respect of the incident dated 28/11/2014. She had alleged that her family members and relatives were also assaulted by the complainant and that they had sustained injuries. On the basis of her statement, Crime No. 355 of 2014 is registered at Lonikand Police Station against the complainant and others for offence punishable under Section 143, 147, 323, 324, 326, 504, 506 of the Indian Penal Code. The learned Counsel submits that in Crime No. 355 of 2014 only one accused is arrested whereas the

accused in crime No. 354 of 2014 who have been arrested have been granted bail under Section 439 of the Code of Criminal Procedure, 1973. According to the learned Counsel, it was an altercation, in which both the groups had sustained injuries. Learned Counsel further submits that there is delay in lodging first information report which goes to the root of the matter. According to the learned Counsel, the incident is dated 28/11/2014 whereas the report was lodged on 1st December, 2014. Hence, the truthfulness of the allegations levelled against the present applicants has to be looked into and their role also is to be appreciated. However, this Court is not inclined to do the same, as the allegation is principally under Section 143, 147, 148 and the role need not be segregated or distinguished at this stage.

5 Perused the papers of investigation. Although, it is a cross-complaint, it is apparent on the face of the record that on 1st December, 2014 complainant Govind Tule has lodged report at 12.15 in the noon of 1/12/2014, whereas Deepali Bhausaheb Tule has

lodged the report at the police station at about 1.30 p.m. Learned APP rightly submits that the registration of crime No. 355 of 2014 is a counter-blast to the registration of Crime No. 354 of 2014.

6 The learned Counsel submits that from 28/11/2014 to 1/12/2014 the parties were exploring the possibilities of some settlement and therefore, the complainant has approached the police station on 1/12/2014.

7 Perused the injury certificates. Govind Tule has sustained head injury. The injuries were sutured. There was fracture of left extremities. The same was plastered at SGS, Pune. As per the certificate issued by Dr. Divate's Hospital, the injured Govind Tule had sustained a grievous head injuries. Similarly, Suman Tule has also been injured. She had sustained head injury and said injuries were sutured at Sassoon Hospital, Pune. The injury certificate issued by Sassoon Hospital also shows that Govind Tule had sustained a fracture of left ulna which is a grievous injury.

8 In view of this, the applicants herein do not deserve the discretionary relief under Section 438 of the Code of Criminal Procedure, 1973. The application seeking pre-arrest bail is rejected. The interim relief granted vide order dated 7/1/2015 stands vacated. The application is disposed of accordingly.

9 The oral prayer for staying this order is hereby rejected.

(SMT. SADHANA S. JADHAV,J)