

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5555 OF 2016

1. Kiran Suresh Gaikwad .. Applicants
Age. 35 years, Occ. Unemployed,
2. Rahul Suresh Gaikwad
Age. 30 years, Occ. Business,
3. Rani Suresh Gaikwad,
Age. 28 years, Occ. Nil,

All R/o. Siddharthnagar,
Chitod Road, Dhule,
Dist. Dhule.

Versus

The State of Maharashtra .. Respondent

Mr.P.S. Paranjape, Advocate for applicants.
Mr.A.S. Shinde, A.P.P. for respondent/State.

CORAM : A.M. BADAR,J.
DATED : 18.10.2016

P.C. :-

1. Applicants, namely, Kiran Gaikwad, Rahul Gaikwad
and Rani Gaikwad, by this application under section 438

of the Cr.P.C. are seeking pre-arrest bail in Crime No. 201 of 2016, registered with Dhule City Police Station, for the offences punishable under section 307, 452, 143, 147, 149, 324, 323, 504, 506 of the Indian Penal Code, under section 4-25 of the Arms Act as well as under section 37(1) (3) & 135 of the Maharashtra Police Act.

2. Heard learned Counsel appearing for applicants/accused. He argued that allegations in the F.I.R. are to the effect that applicant Kiran had poured kerosene on the person of Buddhpriya. It is further alleged that applicant - Rahul was holding sword stick and assaulted the informant and applicant Rani had assaulted the members of prosecuting party by means of a piece of tile. Learned Counsel argued that one will have to examine the injuries allegedly suffered by the members of the prosecuting party. He further argued that mere pouring of kerosene does not attract section 307 of the Indian Penal Code, as no other overtact is attributed. It is argued that, in-fact, there was dispute in the family, as co-accused Rahul Pagare, who is real brother of the informant, had poured kerosene on the person of the informant. Others went for rescuing the informant, but they are falsely implicated in the crime in question. Learned Counsel further argued that other co-accused are granted bail and the informant has criminal antecedents

and an offence punishable under section 395 of the Indian Penal Code is registered against him subsequently.

3. Learned A.P.P. opposed the application by contending that the injury certificate of the injured shows that the incident in question had happened. The informant has suffered grievous injuries. Statements of witnesses are supporting the prosecution case.

4. I have considered the rival submissions and also perused papers of investigation. The incident in question took place on 07.09.2016. According to the prosecution case, accused persons formed an unlawful assembly with common object. According to the prosecution case, applicant No.1-Kiran had poured petrol on the person of informant Sagar as well as his sister Buddhpriya. Co-accused Rahul poured kerosene on the person of Buddhpriya. When she shouted, other accused persons including present applicant No.2 - Rahul and applicant No.3 - Rani rushed to the spot. It is case of the prosecution that applicant Rahul was holding a sword stick, co-accused Nilesh was holding sword, accused Ganesh was holding an axe. It is averred that co-accused Ganesh had given blow of axe on head of the informant Sagar and co-accused Nilesh had given a blow of sword stick on the leg of Buddhpriya. It is further averred

that applicant Rahul had assaulted informant Sagar on the chest. Applicant - Rani has assaulted members of the prosecuting party by a piece of tile.

5. Perusal of investigation papers shows that blood was spilled on the spot of incident. Some weapons stained with blood were also lying on the spot. A bottle of petrol and kerosene as well as a piece of tile was found lying on the spot.

6. On this backdrop statement of Buddhpriya, Dhondiram, Kaushalyabai, Nirmalabai, Mangalabai etc. are corroborating the version of the informant. The informant had suffered three grievous injuries on vital part of his body, such as parietal region as well as right side of the chest. Injury of right side chest is shown as stitched wound in the injury certificate and this corroborates version of the informant that applicant - Rahul had assaulted him on his chest. The informant had also suffered other injuries in the nature of contusion and abrasion. Buddhpriya also suffered blunt trauma on chest and head, contused lacerated wound on left hand, blunt trauma to her both thigh as well as left upper limb.

7. In this view of the matter, it cannot be said

that, no offence punishable under section 307 of the Indian Penal Code is, prima facie, made out. It is seen that there was unlawful assembly with common object and overtact is also attributed to the applicants. Therefore, no case for anticipatory bail is made out. The application is rejected.

[A.M. BADAR, J.]