

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

CRIMINAL APPLICATION NO. 5698 OF 2016

1. Shiva Bhima Telang .. Applicants
Age. 30 years, Occ. Agriculture,

2. Maruti Bhima Telang
Age. 28 years, Occ. Agriculture,

3. Bhagwan Bhima Telang
Age. 26 years, Occ. Agriculture,

All R/o. Mirpur-Lohare, Tq. Sangamner,
Dist. Ahmednagar.

4. Jagan Kabhu Dhapase
Age. 26 years, Occ. Agriculture,
R/o. Mendhawan, Tq. Sangamner,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr. Joydeep Chatterji, Advocate for applicants.

Mr. S.B. Yawalkar, APP for respondent/State.

WITH

CRIMINAL APPLICATION NO. 5937 OF 2016

Navnath Changdeo Jondhale .. Applicant

Versus

Shiva Bhima Telang & Ors. .. Respondents

Mr. V.Y. Patil, Advocate for the applicant/informant.

Mr. Joydeep Chatterji, Advocate for respondent Nos.1to4.

Mr. S.B. Yawalkar, A.P.P. for respondent/State.

CORAM : A.M. BADAR,J.**DATED : 25.10.2016****P.C. :-**

1. Applicants/accused in Crime No.I-141 of 2016, registered with Sangamner Takuka Police Station, Dist. Ahmednagar, for offences punishable under sections 307, 325, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, by this application, are seeking pre-arrest bail.

2. Heard learned Counsel for applicants/accused. He vehemently argued that the entire F.I.R. is concocted version of the informant and all applicants are falsely implicated in the crime in question. Learned Counsel further argued that in-fact, persons who were not concerned with the incident are also roped in the crime in question and therefore in every probability, all applicants are falsely implicated in the crime in question.

3. Learned A.P.P. opposed the applicant by contending that version of the informant is corroborated by statement of Md. Khalid M.N. Kadari, puncher shop owner of the petrol pump so also injury certificate.

4. I have carefully considered the rival submissions and perused papers of investigation.

According to informant - Navnath Jondhale, the incident in question took place because he had intervened in the quarrel between his cousin and applicant Nos.1 and 2 on some earlier occasion. According to the informant on 02.09.2016, when he was at the petrol pump at Shirdi after 10.30 p.m., applicant Nos.1 to 3 came there in a car of Indica make. They were armed with iron rods. They assaulted him by iron rod. The informant further alleged that owner and employees of the petrol pump including Somnath Kankate, Somnath Lahange, applicant No.4-Jagan also assaulted him at that time. They all robbed him of Rs.1 lakh and a gold chain.

5. From the injury certificate, it is seen that the informant had suffered fracture injury in the incident in question. Prima facie, it is seen that applicant Nos. 1 to 3 came on the spot in a car armed with weapons. Common intention as such is reflected from the act of applicant Nos.1 to 3, in coming to the petrol pump where the informant was present. However, the informant appears to have added embellishment to his version by implicating employees of the petrol pump present there in the assault. This is writ large from the statement of Md. Khalid, puncher repair shop owner at the petrol pump, where the incident had happened. His version shows that earlier in point of time i.e. at about 9.30 p.m.

employees of the petrol pump had some minor dispute with the informant. Then as per version of Md. Khalid, the informant again came to the petrol pump at about 10.30 p.m. when he was assaulted there by three persons, who came in the Indica car on the petrol pump. In this episode, witness Md. Khalid is not implicating employees of the petrol pump. Prima facie, it is seen that there were two incidents at two point of time. In second incident of assault, prima facie, it is seen that Jagan Dhapase – applicant No.4 had not participated or that he was not concerned with the same. In this view of the matter, no case for anticipatory bail is made out by applicant Nos. 1 to 3. However, as applicant No.4-Jagan Dhapase was not concerned with the incident of assault on informant which took at different time, his liberty needs to be protected. Hence, the following order :-

O R D E R

- i. The application is partly allowed.
- ii. In the event of his arrest in Crime No.I-141 of 2016, registered with Sangamner Takuka Police Station, Dist. Ahmednagar, for offences punishable under sections 307, 325, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, applicant No.4 – Jagan Kabhu Dhapase, be released on bail on executing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand) and on furnishing surety in like amount.

iii. As a condition of this order, applicant No.4 - Jagan shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police to the Court.

iv. Applicant No.4 - Jagan shall not tamper the evidence of the prosecution.

v. Applicant No.4 - Jagan shall attend concerned police station as and when reasonably called for the purpose of investigation.

vi. Application of applicant Nos. 1 to 3 is rejected.

vii. In view of disposal of main application, Criminal Application No. 5937 of 2016 stands disposed of.

[A.M. BADAR, J.]