

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1732 OF 2015

Sampat Vyankat Phalke	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Shailesh D. Chavan, Adv. for the applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 29th February, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.85 of 2015 registered with Koregaon Police Station for offences punishable under Sections 141, 143, 147, 148 & 149 r/w. 34 of the IPC and Sections 3, 4 (25), 37 of the Arms Act and Sections 37(1) (3) / 135 of the Bombay Police Act.

2. The aforesaid crime was registered pursuant to the FIR lodged by Amol Phalke. The allegations against the applicant are that on 28th June, 2015 at about 9 am the applicant along with other co-accused formed an unlawful assembly armed with deadly weapons

such as gun, sword etc. and fired at Ashok Phalke, the father of the first informant. It is further alleged that the applicants and the other co-accused also inflicted injuries by means of swords.

3. Mr. Chavan, the learned counsel for the applicant submitted that the applicant himself was assaulted and was injured in the said incident and was admitted in hospital for about one month. He has further submitted that there is no prima facie material to show the involvement of the applicant in this crime and that the applicant is entitled for bail.

4. Mrs. Mulekar, the learned APP for the State has submitted that the material on record prima facie reveals that the applicant was the member of an unlawful assembly and was armed with deadly weapons. She has further submitted that the victim Ashok Phalke had sustained grievous injuries on the vital part of the body. She has further submitted that the nature of the allegations levelled against the applicant would warrant custodial interrogation.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The FIR

lodged by Amol Phalke, the son of the victim prima facie reveals that on 28th June, 2015 at about 10 am his uncle informed him that his father had been assaulted at Satara road. He therefore proceeded towards the place of the incident and he saw his father lying in pool of blood in front of one shop. He has stated that his father had informed him that the applicant and the others had come to the place of the incident armed with deadly weapons such as swords and gun. He had further stated that the co-accused Kishor Phalke had fired the gunshots and the other accused had inflicted injuries on him by means of swords.

6. The statement of the injured also prima facie reveals that the applicant was one of the members of the unlawful assembly. He has stated that the applicant and the other co-accused were armed with gun and swords. The statement of injured further reveals that the co-accused Kishor Phalke had fired a gun shot and that the present applicant and others had assaulted him by means of swords.

7. The statement of the injured witness prima facie reveals that the applicant was involved in inflicting injuries on him by means of dangerous weapon. The medical certificate also prima facie reveals

that the injured had sustained grievous injuries on the vital part of the body. The nature of the allegations levelled against the applicant, in my considered view, does not justify grant of pre-arrest bail.

8. Under the circumstances and in view of the discussion supra the application is dismissed.

(ANUJA PRABHUDESSAI, J.)