

Anand

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

ANTICIPATORY BAIL APPLICATION NO.99 OF 2016

1. Keda Daval Bhamare .Applicants
2. Sachin Keda Bhamare
3. Gokul Keda Bhamare
4. Shashikant Ramchandra Bhamare
5. Ravindra Ramchandra Bhamare
6. Nanji Nitin Trambak Bhamare

Vs.

The State of Maharashtra .Respondent

Mr.Shishir Hiray i/b. M/s.Jay & Co., Advocate, for
the Applicants

Mr.N.R.Bubna, Advocate, for the Original
Complainant

Mrs.G.P.Mulyekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 14.03.2016

P.C.

. Heard learned counsel for the Applicants,
learned counsel for the Original Complainant and
the learned APP for the Respondent – State.

2. At the outset, learned counsel for the
Applicants states that he does not press the

Application, qua Applicant Nos.1 & 2 and states that Applicant Nos.1 & 2 will surrender before the investigating officer, within two weeks from today. As far as Applicant Nos.3 to 6 are concerned, he submits that there is no overt act as against the Applicant Nos.3 to 6 and their Anticipatory Bail Application be considered.

3. By this Application, the Applicant Nos. 3 to 6 seek pre-arrest bail in connection with C.R.No.131 of 2013 registered with the Jaikheda Police Station, Taluka-Satana, District-Nasik, for the alleged offences punishable under Sections 395, 397, 307, 438, 511, 452, 324, 354, 323, 427, 504 & 506 of the Indian Penal Code.

4. The incident in question has taken place on 19.09.2013. Learned counsel for the Applicants submits that in 2013, the Applicant No.2 herein, had lodged a complaint, being C.R.No.61 of 2013 as

against the Complainant's father and other family members. He submitted that there was a dispute between two villages, with regard to the laying of pipe line and water, which was supplied through the pipe line. He submitted that the Applicants belong to village-Pigalle Wade, Taluka-Baglan, District-Nasik and the Complainant and others belong to village-Mungse, Taluka-Satana, District-Nasik. He submitted that in the Civil Suit which was filed by the Applicants, there was an interim order, not to disturb the pipe line through which water was supplied to village- Pigalle Wade. He submitted that the Complainant and others were aggrieved by the said order passed in the Civil Suit which was in the Applicants' favour, and hence the Complainant and others have lodged a false FIR and exaggerated the incident in the FIR, as against the Applicants and others. He submits that the incident in question which took place on 19.09.2013, falsely implicates the Applicants and others. He further

states that the Applicants were not absconding for the last two years and that no efforts were taken by the police, to arrest the Applicants nor any proclamation was issued as against the absconding accused. According to the Applicants, they were residing at the given address, however, they were not arrested.

5. Mr.Bubna, learned counsel for the Original Complainant relied on the Judgment of the Apex Court in ***Vishnu And Others Vs. State of Rajasthan***, reported in ***(2009)10 Supreme Court Cases 477***.

6. Learned APP opposes the Bail Application. She submitted that in the incident which took place on 19.09.2013, five persons were injured. She submits that out of the said five persons, four had received simple injuries and one had received a grievous injury. She submitted that it is the Complainant's case, that the accused had come to

their house armed with weapons such as sickle, sword and koyta. She submitted that in the said incident, the Applicant No.2-Sachin Bhamare assaulted Dadaji Nikam with a sickle alongwith others. She submitted that as far as Mahini, Jijabai and Shobha were concerned, their modesty was outraged by Keda Bhamare-Applicant No.1. As far as the Applicant No.3 is concerned, she submitted that he is alleged to have assaulted the two sons of Anna Bagul with wooden sticks. According to her, the injuries sustained by the two sons of Anna Bagul are simple in nature. As far as the other Applicants are concerned, although, they are alleged to have been present at the spot, they are not alleged to have assaulted any of the injured. On being questioned, she submitted that none of the injured witnesses have attributed any specific overt act to Applicant Nos.4 to 6, except Applicant No.3-Gokul, who is alleged to have assaulted Anna Bagul's two sons with wooden sticks.

7. Perused the papers. The Application is being pressed by the learned counsel only as against Applicant Nos.3 to 6. As far as Applicant Nos.4 to 6 are concerned, no overt act is attributed to them, by the injured. The only allegation is that they were present at the spot. As far as Applicant No.3 is concerned, he is alleged to have assaulted the two persons of Anna Bagul with a wooden stick. No Injury Certificates of the two sons of Anna Bagul are placed on record.

8. Considering the role played by the Applicant Nos.3 to 6, the Applicant Nos.3 to 6 are granted Anticipatory Bail, on the following terms & conditions;

ORDER

(i) In the event of the arrest, the applicant Nos.3 to 6 be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;

(ii) The applicant Nos.3 to 6 shall report to the investigating officer of the Jaikheda Police Station, Taluka-Satana, District-Nasik on **every Friday & Saturday** between 10.00 a.m. to 12.00 noon till the filing of the charge-sheet;

(iii) The applicant Nos.3 to 6 shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;

(iv) The applicant Nos.3 to 6 shall inform their latest place of residence and mobile contact number immediately 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.

9. The Anticipatory Bail Application is partly allowed in the aforesaid terms and is accordingly disposed of. The Application is not granted qua Applicant Nos.1 & 2. The statement of

the learned counsel for the Applicant Nos.1 & 2, that the said Applicant Nos.1 & 2 will surrender within two weeks is accepted. If an Application for regular bail is filed, the same shall be decided on its own merits, in accordance with law.

10. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)