

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 121 OF 2016

Rohit Deshraj Chavan ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Rahul Kate for the Applicant
Mr. D.P.Adsule , APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : FEBRUARY 03, 2016.**

P.C.

1. This is an application filed under Section 439 of Cr.P.C. by the aforesaid applicant who has been arrested in C.R.No.236 of 2015 registered with Vadgaon Nimbalkar Police Station, for offences under Section 143, 147, 148, 307, 324, 325, 427, 506 of the Indian Penal Code.

2. The case of prosecution in brief is that on 18.12.2015 the applicant along with other co-accused formed an unlawful assembly, armed with deadly weapons. It is alleged that the applicant and the

other co-accused had inflicted injuries on the complainant Dhondiram and other witnesses namely Sanjay Jadhav, Mahadev Sawant and Rahul Jadhav by means of swords, pipes and sticks etc. The said crime was registered pursuant to the FIR dated 20.12.2015, lodged by Dhondiram. The said application came to be dismissed by order dated 16.1.2016 and hence the present application.

3. Shri Kate, the learned Counsel for the applicant submits that the FIR does not prima facie reveal that the applicant was involved in any manner in inflicting the injury on the complainant or the other witnesses. He has further submitted that the injuries sustained by the complainant and the other witnesses are simple in nature. He therefore claims that the essential ingredients of section 307 are not made out.

4. The learned APP submitted that the applicant was a member of unlawful assembly which was armed with deadly weapon. He has further submitted that the applicant and the other members of the said unlawful assembly had inflicted injuries on the complainant and the four members. He has further submitted that the complainant was under treatment for over 20 days. He has submitted that the

offence is of serious nature and hence the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The FIR lodged by Dhondiram prima facie reveals that on 18.10.2015 while he was proceeding towards his house, one jeep without a number plate followed him and dashed against his scooty and thereafter the co-accused Kisan Satpute and others came out of the jeep and tried to assault him. He has stated that the applicant and some others were also present at the place of the incident and that they were armed with sticks and that they had assaulted Sanjay Jadhav, Mahadev Sawant and Rahul Jadhav.

6. The FIR as well as the other material on record does not indicate that the applicant was armed with deadly weapon or that he had inflicted any injury on the vital part of the body of the complainant or the other injured. The medical certificate indicates that the injuries sustained by the complainant as well as by the other injured were simple in nature.

7. The medical certificate which was placed on record earlier while deciding the bail application No.184 of 2016 indicates that the injury sustained by the complainant were simple in nature. The learned APP has produced before me for perusal injury certificate dated 22.12.2015, a perusal of which indicates that the complainant had sustained fracture of lower end woolna. The said injury is not on the vital part of the body and prima facie is not sufficient to cause death in ordinary course of nature.

8. The above facts and circumstances, particularly the nature of the injuries would not justify custodial interrogation. The applicant is a permanent resident of Waglewadi, Baramati at Pune. There is no possibility of the applicant absconding or thwarting the course of justice. He has no criminal antecedents. In the facts and circumstances, the application is allowed on the following terms and conditions:-

i) In the event of arrest of the above named applicant in crime no.236 of 2015 registered with Vadgaon Nimbalkar Police Station, he shall be released on bail on furnishing bail bond of Rs.20,000/-

(Rupees Twenty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned JMFC, Baramati.

ii) The applicant shall report to the Investigating Officer for four days from 10 a.m. to 1 p.m. for the purpose of interrogation and investigation, from the date of receipt of this order.

Iii) The applicant shall not interfere with the complainant or the other witnesses in any manner.

iv) The applicant shall not leave Baramati, Pune District without the prior permission of the JMFC, Baramati.

(ANUJA PRABHUDESSAI, J.)