

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

Amk

ANTICIPATORY BAIL APPLICATION NO. 130 OF 2016

Mainabai Sahebrao Chormale & Ors. ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 131 OF 2016**

Subhash Balu Barkade & Ors. ...Applicants

Versus

The State of Maharashtra ...Respondent

.....

Mr. Vikas B. Shivarkar for the Applicants.

Mr. S. H. Yadav, APP for the Respondent -State in ABA 130/16.

Mr. S. V. Dev, PSI, Jejuri Police Station, Pune present.

Mr. Arjan Saif, APP for the State in ABA 131/16.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th JANUARY, 2016.

P. C. :

1. These are the applications for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No. 4/16 registered by Jejuri Police Station, Pune for the offence under Sections 143, 147, 148, 326, 324, 354A, 504, 506 read with Section 149 of the Indian Penal Code and Sections 11 & 12 of the Protection

of Children from Sexual Offences Act and Section 135 of the Bombay Police Act.

2. The case of the prosecution in brief is that, on 05.01.2016 at about 2.30 p.m. the applicants along with other co-accused had formed an unlawful assembly armed with deadly weapons and assaulted the complainant and his family members. One of the accused, Sunny Chormale is alleged to have outraged the modesty of the daughter of the complainant. Pursuant to the FIR lodged by Jagannath Barkade the aforesaid crime came to be registered. The applicants herein had filed applications for anticipatory bail which came to be dismissed by the Additional Sessions Judge, Pune by an order dated 19.01.2016. Hence the present applications.

3. Mr. Shivarkar, learned Counsel for the applicants has submitted that the complainant and his family members had assaulted the applicants. Pursuant to FIR lodged by Dnyaneshwar, Crime No.5 of 2016 has been registered against the complainant and his family members for the offences under Sections 143, 147, 148, 324, 323, 504, 506 read with Section 149 of the Indian Penal Code and Section 135 of the Bombay Police Act. Learned Counsel for the applicants

submitted that the co-accused, who was allegedly involved in eve teasing, has already been arrested and the weapons of the offence have been recovered from the other accused. He, therefore, submits that the presence of the applicants is not required for custodial interrogation.

4. Mr. Yadav and Mr. Sait, learned APPs submitted that the applicants had gone to the house of the complainant armed with weapons and had inflicted injuries on the complainant and others. The learned APPs further submitted that the co-accused Sunny was involved in eve teasing the daughter of the complainant which has led to the incident of assault. They have further submitted that the applicants are involved in committing a serious offence and, therefore, they are not entitled for bail.

5. I have perused the record and considered the submission advanced by the learned Counsel for the applicants and the learned APPs for the State. The FIR lodged by Jagannath Namdeo Barkade, prima facie, reveals that on 01.01.2016 one of the co-accused by name Sunny Chormale was involved in eve teasing the daughter of the complainant. On 05.01.2016 at 14.30 hours while the

complainant and his other family members were sitting by the side of the road in front of the house, the applicants and other co-accused came armed with sticks, rods etc. and questioned them as to why they were not settling the previous incident of eve teasing. The complainant has stated that the co-accused Shital assaulted him with an iron rod whereas the applicants Bhimrao, Subhash and Dnyaneshwar inflicted injury on his forehead by means of sticks. He has further stated that the other applicants in Anticipatory Bail Application No. 130 of 2016 had assaulted him and his wife by kicks and blows and threatened to cause their death.

6. It is pertinent to note that the co-accused Shital Chormale, who had allegedly assaulted the complainant by means of an iron rod and caused grievous injury, has already been arrested and the iron rod has already been recovered. Though the complainant has alleged that the applicants Bhimrao, Subhash and Dnyaneshwar had inflicted injuries by means of stick, medical certificate does not prima facie reveal that the complainant had sustained any injury on his forehead. The allegations against the other applicants in Anticipatory Bail Application No. 130 of 2016 are that they were involved in assaulting the complainant and his wife by giving slaps and blows. Such general

allegations would not justify custodial interrogation. Moreover the record prima facie reveals that there was a scuffle between both the groups and the members of the respective group had sustained injuries which had led to filing of FIRs against each other. The above facts and circumstances would not justify custodial interrogation.

7. The applicants are the permanent resident of Pune District and there is no possibility of the applicants absconding. There is no prima facie material to show that the applicants have criminal antecedents.

8. Under the circumstances and in view of discussion supra, the applicants are entitled to anticipatory bail. Hence the applications are allowed in terms of the following order:

(a) In the event of the arrest of the applicants, the applicants are ordered to be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty thousand only) with one surety in the like amount to the satisfaction of the Judicial Magistrate First Class, Saswad.

(b) The applicants shall report to the Investigating Officer for 4 days from 10 a.m. to 1 p.m from the date of the receipt of the order.

(c) The applicants shall not interfere with the complainant and the other witnesses in any manner.

(d) The applicants shall not leave Pune district till the filing of the charge-sheet without prior permission of the Judicial Magistrate First Class, Saswad.

(ANUJA PRABHUDESSAI, J.)