

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

ANTICIPATORY BAIL APPLICATION NO. 136 OF 2016

Dilip Pondkule & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Sushant S. Prabhune for the Applicant.

Mr. D. P. Adsul, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th JANUARY, 2016.

P. C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No. 370/15 registered with Baramati Taluka Police Station for offences punishable under Sections 409, 147, 148, 149, 323, 324, 326, 504, 506 of the Indian Penal Code.

2. The case of the prosecution in brief is that, on 24.10.2015 at about 10.30 p.m. the applicants along with other accused formed an unlawful assembly armed with deadly weapons. It is alleged that the applicants and other co-accused assaulted the complainant Shri

Shivaji Nazirkar and his son Mahesh by means of sticks, rods etc. and caused grievous injuries to them. It is further alleged that the applicants and the other accused pelted stones on the house of the complainant and further abused and threatened them. Pursuant to the complaint lodged by said Shivaji Nazirkar, the aforesaid crime has been registered. The applicants herein apprehending their arrest filed the anticipatory bail application before the Additional Sessions Court, Baramati. The said application came to be dismissed by the Additional Sessions Judge, Baramati by an order dated 16.12.2015. Hence the present application.

3. Heard the learned Counsel for the applicants. The learned Counsel for the applicants has submitted that one of the co-accused in present crime had already lodged a complaint against the present complainant and his family members for assaulting him and the other accused in the present crime. He has further stated that there is no prima facie material on record to show the involvement of the applicants in causing grievous injuries to the complainant and his son. He has submitted that the accused who had allegedly assaulted the complainant and his son by means of wooden sticks and rods have already been arrested and the weapons have been recovered.

He, therefore, claims that the presence of the accused is not required for custodial interrogation. The learned APP submits that the applicants are involved in serious offence and they are not entitled for bail.

4. I have perused the record and considered the submissions advanced by the Counsel for the applicants and the learned APP for the State. The records prima facie indicate that there was a quarrel between the applicants herein and the complainant and his family members. Members of both the groups had sustained injuries and lodged complaint and counter complaint against each other. The medical records prima facie indicate that the injuries sustained by the complainant and his son were of simple in nature. The records do not prima facie disclose ingredients of offence punishable under Section 326. The other offences are not of serious nature which would justify custodial interrogation. The applicants are the permanent residents of Shirwali, Taluka Baramati. There is no possibility of the applicants absconding or thwarting the Course of Justice. There is no material to show that the applicants have criminal antecedents. Under these circumstances, the application is allowed on the following terms and conditions:

- (a) In the event of the arrest of the applicants in Crime No. 370 of 2015 registered at Baramati Taluka Police Station, the applicants are released on bail furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand only) each with one surety in the like amount to the satisfaction of the Judicial Magistrate First Class, Baramati.
- (b) The applicants shall report 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 filing of the charge-sheet without prior permission of the Judicial Magistrate First Class, Baramati.

(ANUJA PRABHUDESSAI, J.)