

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

ANTICIPATORY BAIL APPLICATION NO.216 OF 2016

Kisan Aba Sakunde & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondents

.....

Ms Savita A. Prabhune for the Applicants.

Ms Veera Shinde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 4th FEBRUARY, 2016.

P. C. :

At the outset the learned counsel for the Applicants, under instructions seeks leave to withdraw the application as against the Applicant Nos.1, 3 and 4. Leave is granted. Amendment to be carried out forthwith.

2. The application is dismissed as withdrawn as against the Applicant Nos.1, 3 and 4.

3. This is an application filed under section 438 of the Criminal Procedure Code by the aforesaid Applicant No.2 apprehending his arrest in Crime No.236 of 2015 registered with

Wadgaon Nimbalkar Police Station, District- Pune (rural), for offences punishable under sections 143, 147, 148, 307, 324, 325, 427, 504 and 506 of the Indian Penal Code.

4. The case of prosecution in brief is that on 18.12.2015 the Applicant No.2 alongwith other co-accused formed an unlawful assembly, armed with deadly weapons. It is alleged that the Applicant No.2 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 Applicant No.2 had filed application for anticipatory bail before the Additional Sessions Judge, Baramati. The said application came to be rejected by order dated 16.1.2016 and hence the present application.

5. The learned counsel for the Applicant No.2 submits that the FIR does not prima facie indicate that the Applicant No.2 was involved in inflicting injury on the complainant or other witnesses. She has further stated that the FIR does not prima facie disclose the essential ingredients of Section 307 IPC. She has further submitted that the injuries are not of serious nature and that the presence of the Applicant

No.2 is not required for the custodial interrogation.

6. The learned APP submitted that the Applicant No.2 was a member of the unlawful assembly, which was armed with deadly weapon. She has further submitted that the Applicant No.2 and the other members of the said unlawful assembly had inflicted several injuries on the complainant and four others. She has further submitted that the complainant was under treatment for over 20 days. She has submitted that the offence is of serious nature and hence the Applicant No.2 is not entitled for anticipatory bail.

7. 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 18.12.2015 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 No.2 was armed with a stick and had accompanied other accused, who had assaulted the complainant, Sanjay Jadhav, Mahadev Sawant and Rahul Jadhav.

8. The FIR as well as the other material on record does not

prima facie indicate that the Applicant No.2 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 persons. The medical certificate does not indicate that the complainant had sustained grievous injury on any vital part of the body.

9. The above facts and circumstances, particularly the nature of the injuries would not justify custodial interrogation of the Applicant No.2. The Applicant No.2 is a permanent resident of Waglewadi, Baramati at Pune. There is no possibility of the Applicant No.2 absconding or thwarting the course of justice. He has no criminal antecedents. In the facts and circumstances, the application is allowed as against the Applicant No.2 on the following terms and conditions:-

- (i) In the event of the arrest of the Applicant No.2 in Crime No.236 of 2015 registered with Wadgaon Nimbalkar Police Station, District- Pune (rural), 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 No.2 shall report to the Investigating Officer from 10.00 a.m. to 1.00 p.m. for four days from the date of the receipt of the order and further as and when required by the Investigating Officer.
- (iii) The Applicant No.2 shall furnish his contact number, and his address, permanent as well as temporary, if any, to the Investigating Officer.
- (iv) The Applicant No.2 shall not leave Baramati, District-Pune, without prior permission of the JMFC, Baramati.

(ANUJA PRABHUDESSAI, J.)