

Anand

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

ANTICIPATORY BAIL APPLICATION No.610 OF 2016

1. Prakash Dnyandeo Waghale .Applicants
2. Akash Prakash Waghale

Vs.

The State of Maharashtra .Respondent

Mr.S.V.Kotwal i/b. Mr.M.S.Mohite, Advocate, for
the Applicants

Ms R.M.Gadhvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 05.05.2016

P.C.

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

2. By this application, the applicants
seek pre-arrest bail in connection with C.R.
No.39 of 2016 registered with the Jejuri Police
Station, Pune, for the alleged offences
punishable under Sections 323, 326, 325, 504,
506 r/w 34 of the Indian Penal Code.

3. The incident in question has taken place on 20th February, 2016 at about 10.00 p.m. The complainant is Bapu D. Gaikwad, who has also sustained injured. He has stated that on the aforesaid day and time, when he was heading towards his house, after his work, on a motorcycle, he stopped near the house of the applicants. He has stated that he saw the applicant no.1, who was coming from behind on his motorcycle, falling down from his motorcycle, due to the sudden incline on the road. He has further stated that he rushed to help the Applicant No.1, however, the applicant no.1 started arguing with him on a petty issue and thereafter, both the applicants assaulted him with fists and kick blows, and with iron rod and wooden stick.

4. Learned Counsel for the Applicants submitted that with respect to the same incident, the applicant no.1 has also lodged a

cross case, however, the same was registered as an NC, despite the fact, that the applicant no.1 had sustained a fracture. He submitted that the applicant no.1 was sent to the Sassoon General Hospital and thereafter, to Abane Hospital. He relied on a certificate which is on page 41 of the application, in support of his submission. According to the learned counsel, the complainant had come to the applicants residence and under the influence of alcohol, had started abusing the applicants. He submitted that it is stated in the said NC, that when the Applicants asked the Complainant not to do so, the Complainant started assaulting them with fist and kick blows. He submitted that the iron rod is recovered from the said spot. According to the learned counsel, it was the Complainant who was the aggressor, and that the same was evident from the fact, that the incident had taken place in front of Applicants house.

5. Learned APP has produced the Injury Certificate of the Complainant – Bapu Gaikwad which shows that he had fractured his legs and had sustained other injuries which were simple in nature. The injuries appear to have been caused by a hard and blunt object. She submitted that that the Applicant No.1 had produced his Injury Certificate to show that he too had fractured his right hand.

6. Perused the papers. The incident in question has taken place outside the house of the Applicants. Both parties have received injuries i.e. the Complainant as well as the Applicant No.1 which are grievous in nature. The Applicants have no antecedents which are similar in nature. It also appears that the iron rod and wooden sticks have been seized from the spot, outside the house of the Applicants.

7. Considering the facts of the case, the custody of the Applicants is not required and the Applicants are granted anticipatory bail on the following terms & conditions:

ORDER

(i) In the event of arrest, the applicants be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount;

(ii) The applicants shall report to the investigating officer of the Jejuri Police Station, Pune **on every Saturday** between **10.00 a.m. and 11.00 a.m.** till the filing of the charge-sheet;

(iii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicants 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.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)