

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

ANTICIPATORY BAIL APPLICATION NO. 770 OF 2016

Mr. Tanaji Laxman Shinde & Anr. ... Applicants.

V/s.

The State of Maharashtra ... Respondent.

WITH

ANTICIPATORY BAIL APPLICATION NO. 641 OF 2016

Mr. Balu Rajaram Aher ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr.Dnyaneshwar Jadhav, Advocate a/w. Nihar Thakeray, Ms. Nikita Panse, Ms. Madhura Shukle i/by M/s. Legasis Partners, Advocate for the Applicants in ABA No. 770 of 2016.

Mr. Sagar Kasar, Advocate a/w. Amol D. Wagh, Advocate for the Applicant in ABA No. 641 of 2016.

Ms. Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 09th JUNE, 2016

P.C. :

1 Applicants/accused in Crime No. I-41 of 2016 for the offences punishable under sections 307, 324, 323, 143, 147, 148 and 149 of the Indian Penal Code, registered with

Manmad City Police Station, Tal. Nandgaon, Nashik, by these applications are praying for pre-arrest bail.

2 Heard the learned counsel appearing for Applicants/accused as well as the learned APP for the State. Perused the FIR as well as papers of investigation. Informant -Nandu S. Jawale had reported concerned police that on 4th March, 2016 at about 7.30 p.m accused Balu Aher and Machindra Pawar had assaulted him by means of fighter on head, chest and back. He further reported that during the incident of assault on him, accused namely- Tanaji Shinde, Vicky Vairal, Sachin Vairal and Shivam Shinde came there and they armed with wooden logs, uttered not to spare informant-Nandu. According to the prosecution case, subsequently accused Tanaji and others also assaulted the informant.

4 Perusal of the papers of investigation shows that initially the FIR was lodged by informant- Nandu for the offences punishable under sections 324, 323, 143, 147, 148 and 149 of the IPC. It appears that subsequently section 307 of the IPC is added to the case diary of the crime in question.

5 Apart from the statement of the injured, the investigating officer has recorded statement of eye witnesses also. The prosecution case is consistent to the fact that the

applicant-Tanaji and his son Applicant No.2-Shivam in ABA No. 770 of 2016 came to the spot of the incident subsequently.

6 Perusal of the injury certificate shows that injured-Nandu had suffered contused lacerated wounds and medical certificate shows the nature of injury to be simple. No doubt the offence under section 307 of the IPC is complete when intention coupled with overt act is pointed out but in any case, the weapon of offence is stated to be fighter and wooden logs. If injury certificate is perused then it appears that there are no corresponding injuries, reflecting assault by the wooden logs.

7 Investigation of the crime in question is over and it is reported that the chargesheet is also filed. Considering the nature of the evidence against the applicants and the offence committed, it can be culled out from the material gathered in the investigation, in my opinion, liberty of the applicants needs to be protected and their custodial interrogation is not warranted. Prima facie, it cannot be said that the applicants had formed unlawful assembly with an intention to kill the informant. Hence, the following order :-

ORDER

- i. Both the applications are allowed.

- ii. Order dated 2nd May, 2016, granting ad-interim anticipatory bail to the Applicants in ABA No. 770 of 2016 and the order dated 11th April, 2016, granting ad-interim anticipatory bail to the Applicant in ABA No. 641 of 2016, are hereby confirmed on the same terms and conditions.
- iii. Applicants should co-operate in expeditious disposal of the trial, in the event of filing of the chargesheet against them.
- iv. In addition, the Applicants/accused are directed that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade such person from disclosing such facts either to the Court or to any police officer and the applicants shall not tamper with the prosecution evidence in any manner.
- v. The applicants should not commit offence of similar nature in future.
- vi. Both these anticipatory bail applications are disposed of accordingly.

(A. M. BADAR, J.)