

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.919 OF 2016

Nilesh Tukaram Naikade and Anr. ..Applicants.

V/s.

State of Maharashtra ..Respondent.

Mr.Balwant V.Salunkhe i/b. Mr.Subhash Hulyalkar for the applicant.

Mr.J.H. Ramugade, APP for respondent-State.

CORAM : AM.BADAR, J.

DATED : 6TH JUNE, 2016

P.C. :-

1. By this application under section 438 of the Criminal Procedure Code, 1973, the applicants / accused in Crime No.192/2016 for the offence punishable under sections 307, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, 1860 registered with Khed police Station, Pune are praying for pre-arrest bail.

2. Heard the learned counsel for the applicant. He argued that the incident had allegedly happened on 29th April,

2016 whereas the F.I.R. came to be lodged on 1st May, 2016. He further submitted that the applicant No.1 is the brother-in-law of the informant whereas applicant No.2 Shankar Shantaram Naikade is the president of the Tanta Mukti of village Kadadhe. By taking me through the F.I.R., the learned counsel for the applicant argued that the informant has alleged to have been assaulted by some unknown persons and he was allegedly given blows by wooden log from behind. As such, according to the learned counsel for the applicant no overt act is attributable to the present applicants and, therefore, they are entitled for pre-arrest bail.

3. As against this, the learned APP referring to the papers of investigation has submitted that the complicity of the applicants in the crime in question is well established and considering the nature of offence, they are not entitled for pre-arrest bail. Applicant No.1 Nilesh Naikade is the brother of the wife of informant. Informant Nilesh Baban Metge was having some family dispute with his wife Shilpa. It is seen that on the date of incident, Shilpa had lodged report against her husband / informant Nilesh Metge which has resulted in registration of non cognizable offence.

4. The F.I.R. came to be lodged by Nilesh Metge while being admitted in the Sushrut Hospital on 1st May, 2016. The F.I.R. reveals that applicant No.1 Nilesh Naikade had called his brother-in-law Nilesh Metge by making a telephone call near the High School of Village Kadadhe. As per the call of Nilesh Naikade, the informant went to the spot, both the applicants were present at the spot accompanied by four others. It is stated in the F.I.R. by Nilesh Metge that one of them assaulted him by means of wooden log on his head from behind and thereafter all of them had assaulted him by means of wooden stick. The informant further stated that applicant No.1 Nilesh Naikade thereafter assaulted him by kicks on face as well as nose.

5. The papers of investigation shows that on 29th April, 2016 informant Nilesh Metge was required to be admitted to Sushrat Hospital and was in serious condition. Doctor had informed the police that he is unable to talk.

6. The injury certificate collected during the course of investigation shows that informant Nilesh Metge had suffered

lacerated wound of size 8 x 4 x 2 cm. on occipital region which was grievous in nature and dangerous to his life. Apart from that he has suffered incised wound on nose and other injuries, including fracture injury.

7. It is thus prima facie seen from the papers of investigation that the present applicants who are specifically named in the F.I.R. along with co-accused had formed an unlawfully assembly with the common object to commit murder of the informant and in that process caused grievous hurt to him and that too on vital parts of the body. The complicity of the present applicants in the crime in question is well established and considering the nature of evidence against them as well as the seriousness of the crime, this case cannot be considered to be a fit case for granting pre-arrest bail. Hence the order.

The application is rejected.

(A.M.BADAR, J.)