

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

**ANTICIPATORY BAIL APPLICATION NO. 1045 OF 2016**

1. Mr. Manoj Prakash Dagade  
2. Mr. Milind Prakash Dagade ... Applicants.

V/s.

The State of Maharashtra ... Respondent.

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Mr. A. P. Mundargi, Sr. Advocate i/by Subir Sarkar, Advocate  
for the Applicants.

Mr. Arfan Sait, A.P.P. for the Respondent – State.

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**CORAM : A. M. BADAR, J.**

**DATE : 28<sup>th</sup> JUNE, 2016**

**P.C. :**

1 Applicants/accused in Crime No. 258 of 2016 for the offences punishable under sections 307, 504, 506(1) & (2) read with section 34 of the Indian Penal Code, registered with Hinjewadi Police Station, Pune, by this application under section 438 of the Criminal Procedure Code, are praying for pre-arrest bail.

2 Heard the learned senior counsel appearing for Applicants/accused as well as the learned APP for the State. Learned counsel for the applicants/accused argued that perusal of the FIR goes to show that the applicants are not named therein so far as the incident of firing from revolver is

concerned. Learned senior counsel for the applicants argued that this incident was preceded by a minor incident of abuses and scuffle. Even the FIR shows that the same is registered only against two persons and not against the present applicants.

4 As against this, according to the learned APP, in the course of investigation of the other FIR lodged by co-accused - Amit Dagade, name of the present applicant no.2- Milind Dagade is shown as the person accompanying the main accused-Prakash Dagade. Learned APP further argued that the statement of victim- Dattaram/ Dattoba also shows the name of both the applicants/accused.

5 Perused the papers of investigation. The incident in question happened on 02.06.2016. The FIR in question is also lodged on the same day. Prima facie, it is seen that the prosecuting party as well as the accused persons were known to each other. In the FIR lodged by Pandurang Wede, it is clearly mentioned that while the work of removal of encroachment was going on, applicant no.2-Milind Dagade accompanied by Anil Dagade came in the four wheeler vehicle and abused Sangram and Navnath Wede, who after chasing the car, stopped it. Then there was scuffle between accused no.2- Milind Dagade on one side and Sangram as well as Navnath Wede on the other side. The informant then reported

that subsequently, main accused - Prakash accompanied by his son-Amit came to the spot of incident alongwith other 3 to 5 persons and thereafter, main accused -Prakash had fired a bullet from his revolver, which hit victim -Dattaram @ Dattoba Wede. In the second part of the incident, informant-Pandurang has neither named applicant no.2-Milind nor applicant no. 1 Manoj. Even in the statement of injured-Dattaram @ Dattoba, name of both the applicants is not figured as persons who accompanied main accused - Prakash Dagade, who indulged in firing the bullets. The prosecution, at the time of registration of the crime, has not arraigned both the applicants as accused though in the prevision incident accusation against them was also reported by the informant, which only revealed hurlings abuses and involving in scuffle.

6           Considering the nature of the evidence against both the applicants, their liberty gets precedence over their custodial interrogation and therefore, the following order :-

### **ORDER**

- i. The application is allowed.
- ii. In the event of their arrest, both applicants/accused in Crime No. 258 of 2016 for the offences punishable under sections 307, 504, 506(1) & (2) read with section 34 of the Indian Penal Code, registered with Hinjewadi Police Station, Pune, be released on bail on executing PR Bond in the sum

of Rs. 10,000/- each and on furnishing surety in the like amount by each of them.

- iii. As a condition of this order, the applicants should attend Hinjewadi police station on 3<sup>rd</sup> and 10<sup>th</sup> July, 2016 between 11 a.m. to 1 p.m. and, thereafter, as and when called by the investigating officer, reasonably till filing of the charge-sheet.
- 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 that applicants shall not tamper with the prosecution evidence in any manner.
- v. The applicants should co-operate the trial court in expeditious disposal of the trial, in the event of filing of the charge-sheet.

The application is disposed of accordingly.

(A. M. BADAR, J.)