

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1158 OF 2016

Nandkumar Bapureao Sonwalkar and Ors. ..Applicants.

V/s.

State of Maharashtra

..Respondent.

Mr.Prashant M. Patil for applicants.

Mrs.Veera Shinde, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 27TH JULY, 2016

P.C. :-

1. Applicants / accused in Crime No.193/2016 for the offences punishable under section 143, 147, 148, 149, 307, 323, 324, 427, 504 and 506 of the Indian Penal Code and under sections 25, 3 and 4 of the Arms Act registered with Phaltan Rural Police Station, District Satara by this application are praying for pre-arrest bail.

2. Heard the learned counsel for applicants / accused. The learned counsel argued that the incident in question happened in front of the house of present applicants. In

submission of the learned counsel for applicants, the informant and his associates were the aggressor and they had rushed at the house of applicants and brutally assaulted family members of applicants so also applicant Nos.2 and 3. The learned counsel further argued that the members of the prosecuting party have falsely implicated applicants and their relatives and this fact is even noted by the learned Additional Sessions Judge while deciding the application for anticipatory bail. The learned counsel argued that applicant No.1 was on duty at the relevant time whereas applicant Nos.2 and 3 were assaulted by the informant and members of the prosecuting party. Reliance is placed on the photographs of applicant Nos.2 and 3 while taking indoor treatment at the hospital.

3. The learned APP opposed the application by submitting that eye witnesses are naming applicant No.1 as the assailant. The learned APP argued that the incident in question has resulted in causing injuries to seven prosecution witnesses, including Eknath Pisal, Dattatraya Pisal, Sachin Pisal, Sunil Pisal, Rahul Pisal, etc.

4. Perused the papers of investigation. In fact, Crime

No.192/2016 came to be registered at the instance of Dilip Sonwalkar against the prosecuting parties. This F.I.R. came to be lodged at 2.08 hours of 9th June,2016. In this cross F.I.R., it is alleged that the informant herein and other members of the prosecuting party attacked the house of Dilip Sonwalkar and started pelting stones. It is further averred that they assaulted informant Dilip Sonwalkar and his family members.

5. Subsequently, the F.I.R. in question came to be registered against present applicants and co-accused at about 4.13 hours of 9th June, 2016 with the averment that present applicants and their family members had assaulted the informant Sachin Pisal and his family members.

6. In both these F.I.R.s the spot of incident is shown to be the courtyard of the house of present applicants at village Bhadali Khurd, Paltan, District Satara. Informant Sachin Pisal has alleged that present applicant Nandkumar was holding sword whereas remaining applicants were holding sticks and they assaulted members of Pisal family.

7. Applicant No.1 Nandkumar is serving as Traffic

Controller with the M.S.R.T.C. Depot Manager of Phaltan Depot has certified that he was on duty from 14.00 hours to 22.00 hours of 8th June, 2016 at Depot at Phaltan. The incident in question had allegedly happened at about 6.00 p.m. of 8th June, 2016 as reported by informant Sachin Pisal.

8. In the F.I.R. in question Vilas Sonwalkar and Balasaheb Sonwalkar are also stated to be assailants holding stick and sword respectively. While dealing with the Anticipatory Bail Application No.356 of 2016, the learned Additional Sessions Judge, Satara had noted that the Collector had issued a certificate showing the presence of accused Balasaheb Sonwalkar at the office of the Collectorate upto 7.30 p.m. It is also noted by the learned Additional Sessions Judge that accused Vishal Sonwalkar at the relevant time was at Shimla. Prima facie, it appears that because of hostile relations between the parties, the tendency of false implication is reflected. Applicant No.1 Nandkumar is a public servant who prima facie seems to be discharging his duties at a Depot of the State Transport Corporation. Applicant Nos.2 and 3 namely Vandana and Sindhubai had themselves suffered serious injuries and the relevant F.I.R. bearing Crime

No.192/2016 is under investigation. Prima facie, these applicants cannot be said to be members of an unlawful assembly.

9. Considering the nature of the allegations and supporting evidence, as discussed in the foregoing paras, custodial interrogation of present applicants is not warranted. Therefore, the order :-

- (i) The application is allowed;
- (ii) In the event of arrest, the applicant / accused in Crime No.193/2016 for the offences punishable under section 143, 147, 148, 149, 307, 323, 324, 427, 504 and 506 of the Indian Penal Code and under sections 25, 3 and 4 of the Arms Act registered with Phaltan Rural Police Station, District Satara be released on bail on their executing P.R. bond in the sum of Rs.5,000/- each with one surety in the like amount by each of them;
- (iii) Applicants / accused 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 him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

- (iv) Applicants / accused shall co-operate for expeditious disposal of the trial;
- (v) Applicants / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)