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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1216 OF 2016

Ranjit Shrirang Wabale and others	 Applicants
V/s.	
The State of Maharashtra	 Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1235 OF 2016

Prashant B. Wabale and others	 Applicants
V/s.	
The State of Maharashtra	 Respondent

Mr. Pranav Bhoite, for the Applicant in Application No.1216 of 2016
Mr. Rahul S. Kate, for the applicant in Application No.1235 of 2016.
Mr. Deepak Thakare, APP for Respondent State in Application No.1216 of 2016.
Mr Y. M. Nakhwa, APP for the State in Application No.1235 of 2016.
Mr. Prashant M. Patil i/by Prashant Hagare, for original complainant.

CORAM : A. M. BADAR, J.

DATE : 28th JULY, 2016.

P.C. :

1. Applicants, Prashat Bajirao Wable, Bajirao Narayan Wable and Ajit Dnyandeo Wabale, in Anticipatory Bail Application No.1235 of 2016 and applicant Ranjit Shrirang Wable, Babu Marutrao Wabale and Manoj Vinayak Wable in Anticipatory Bail Application No.1216 of 2016,

are accused in crime No.414 of 2016 for the offence punishable under Sections 143, 147, 148, 149, 323, 324, 326, 504, 506 of the Indian Penal Code, registered at Yawat Police Station, District, Pune, by these applications are praying for pre-arrest bail.

2. Heard the learned counsels appearing for the applicants. They argued that arising out of the same incident, cross F.I.R. bearing No.415 of 2016 of is registered by applicant Prashant Wable by which offences punishable under Sections 143, 147, 148, 149, 323 and 324 of the Indian Penal Code, came to be registered against prosecuting party in these applications.

3. It is argued that considering the averments made in the F.I.R, common object is not reflected. It is further argued that weapons are already seized by the Investigating Officer.

4. The learned APP opposed the applications by arguing that as the offence is alleged to have committed by members of unlawful assembly. All members thereof are vicariously liable for the acts done by the members of unlawful assembly, therefore, individual act of each member is of no consequence.

5. My attention is drawn to the statement of witnesses as well as injury certificates.

6. Perused the F.I.R. lodged by Sambhaji Chauhan, a member

of Gram Panchayat, Patas, Tal.Daund, District: Pune. The informant reported that on 9th June, 2016 accused persons had obstructed the work of deepening the culvert and at that time, there was altercation. It is further averred that thereafter on 23.6.2016, at about 7.45 p.m., the informant was proceeding by his motorcycle from Bhagwat wadi area to Shitole vasti. At that time the accused Krishna Wabale, Hanumant Wabale had blocked the road. The informant asked them to free the road. At that time according to the informant, applicant accused Prashant Wabale came from behind and assaulted the informant Sambhaji on the head by an axe. The informant reported that then his son Ajit, brother Rajendra, Kisan and Swapnil rushed to the spot.

7. According to the informant, accused Sandip assaulted his son Ajit by means of sword. The informant averred that accused Bajirao Wabale assaulted Rajendra by means of iron rod. Accused Krishna assaulted Swapnil by means of iron rod. Subsequently accused Bajirao, Ranjit Wabale, Bapu Wabale, Ajit Wabale Manoj Wabale assaulted all of them by means of stick. The avernments in the F.I.R. as such go to show that accused Krishna Wabale assaulted Swapnil Chavan by means of iron rod. The said accused namely Krishna Wabale is already released on bail, by the learned Additional Sessions Judge, Baramati.

8. Statements of witnesses are also in similar line. According to

prosecution case, accused persons have formed unlawful assembly and in prosecution of common object of that assembly, they assaulted the informant Sambhaji, his son as well as the brothers by using axe and sticks. Injured Swapnil Chavan has suffer displaced fracture of distal end of Phalanx of last digit of right hand. The other injured witnesses have suffered injuries of simple nature. The author of this fracture injury is accused Krishna Wabale.

9. Perusal of the F.I.R. shows that the informant at the relevant time was going by motorcycle from Bhagwatwadi to Shitoli Vasti, of village Patas. He also averred that after hearing his shouts, his two brothers and his son rushed to the spot. How his brothers and son were available on the spot, is a question which remains unanswered from the papers of investigation. It is reported that prosecution party and accused persons are members of rival political groups in the village. The avernments in the F.I.R. prima facie reveals free fight amongst two groups. The common object of the assailant can be gathered by attending circumstances which can be reasonably inferred from the statements of witnesses, the nature of assembly, behaviour of members of assembly and the averments in the F.I.R. as well as statements of witnesses. Prima facie this does not appears to be a fit case to attribute common object to which members of the accused party are attributed. Fracture injury is caused by accused

Krishna, who is not applicant before the Court. He is already released on bail by the learned Additional Sessions Judge. The record of investigation shows that all weapons allegedly used in the offence are recovered. In the wake of evidence against applicants, their custodial interrogation is not warranted and therefore, the following order.

Order

- I) Applications are allowed.
- II) In the event of arrest of applicants, in above crime, they be released on bail on their executing P.R. Bond sin the sum of Rs.10,000/- by each of them and on their furnishing sureties in the like amount, by each of them.
- III) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) Applicants shall attend the concerned police station on 07.08.2016 and 14.08.2016 and 21.08.2016, in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.
- V) Applicants shall not tamper with the prosecution evidence in any manner.

[A. M. BADAR, J.]