

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1665 OF 2016

1. Nathu @ Appaso Kisan BarkadeApplicants
2. Gulab Salu Barkade
3. Pappu @ Nayaku Salu Barkade

V/s.

The State of MaharashtraRespondent

Mr. Rahul K. Dhaygude Advocate for Applicants
Mr. Vinod Chate APP for the State.
Mr. A. N. Jadhav, P.S.I. Vadgaon Nimbalkar
Police Station, Pune.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : SEPTEMBER 27, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 275 of 2016 registered at Vadgaon Nimbalkar police station for offences punishable under sections 307, 325, 324, 143, 147, 148, 149, 504 & 506 of the Indian Penal Code.

2) It is the case of the prosecution that the complainant Laxman Padalkar lodged a report at the police station, alleging therein that he is the original

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resident of Kuravali, Taluka: Phaltan. That on 25/08/2016, he had been along with Shiva Thombare to village Mudhale. He stayed overnight at the house of Shiva Thombare. On 26/08/2016, he had been to the house of his relative for having tea and breakfast. At about 9.00 a.m., he had seen Raghu Thombare, Antu Thombare near the house of his relative. At that time, Sampat Barkade, Rama Barkade, Sadhu Barkade were waiting in ambush. They were armed with sticks and axe. They mounted assault upon him on the ground that 20 years prior to the incident, the father of Sampat had died a homicidal death and he had suspected the complainant for the same. It is alleged that Sampat, Rama and Sadhu were accompanied by three unknown persons. He had sustained injuries and was taken to Sushrut hospital at Laxmi Nagar. The complainant had sustained contused lacerated wound over right parieto occipital region associated with fracture of occipital bone with multiple contusions. It was a grievous injury. That the investigating officer had recorded the statement of Shiva Thombare on the next day and he had specifically named the present applicants and the act attributed to them was that, they had pelted the stones at the complainant. Complainant was admitted in Sushrut hospital on 26/08/2016 and was discharged 11/09/2016. He was

operated i.e. he has undergone occipital craniotomy with elevation of depressed fracture. The persons named in the F.I.R. have been arrested on 26/08/2016 and 29/08/2016. There is a recovery of weapons at the instance of the principal accused under section 27 of the Indian Evidence Act.

3) The learned counsel for the applicants submits that applicants were not named in the F.I.R., however, they have been implicated subsequently, only because they happen to be distant relatives of the principal accused. It appears that the role attributed to the applicants herein is that they had pelted the stones at the complainant.

4) Taking into consideration the nature of allegations and the role attributed to the present applicants, application deserves to be allowed. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more sureties in the like

amount.

(iii) Applicants shall not enter into the jurisdiction of Mudhale, till filing of the charge-sheet.

(iv) Applicants shall report to the concerned police station on every Sunday and Wednesday between 10.00 a.m. to 12.00 noon for a period of three weeks, commencing from 02/10/2016.

(v) Application is allowed and disposed of in the above terms.

(SMT. SADHANA S. JADHAV, J.)