

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1737 OF 2016

1 Chidanand s/o Rajshekhar Birajdar
2 Shivanand s/o Ramchandra Tenge. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Priyal G. Sarda, advocate for Applicants.

Mr. Rajan Salvi, APP for State.

Mr. S.S. Waykar, PSI, Akkalkot South Police Station.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 23, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicants herein are apprehending their arrest
in Crime No. 88 of 2016 registered at Akkalkot Police Station for

offence punishable under Section 307, 143, 148, 149 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 22/3/2016 Santosh Bhapurao Umadi lodged a report at the police station alleging therein that on 21st March, 2016 he was in the company of this friend Siddharam Arwat. His brother Sanjay Umadi also jointed them. At that time, he saw Jatingraya Madgonde overtook the motorcycle and crossed them. He asked Sanjay as to why he had overtaken him at the previous time and had threatened him. There was verbal altercation. In the mean while, Jatingraya called some of his friends by giving a phone call on his cell phone and instigated others to assault him. The first informant had tried to pacify them. At that time, it is alleged that Shivanand was armed with iron iron and had assaulted the brother of the first informant Sanjay with the same. It is also alleged that all the accused persons had assaulted Sanjay with deadly weapons and hence, attempted to commit murder of Sanjay.

4 Perused the papers of investigation. Medical certificate issued by Shri C.S.M. General Hospital, Solapur shows that Sanjay had sustained 3 contused lacerated wounds which are described as simple in nature. The certificate also shows that the Sanjay was admitted in ICU on 22/3/2016 and was discharged on 23/3/2016.

5 The overt act is attributed to accused Shivanand Birajdar and he is enlarged on regular bail. The learned APP submits that the applicant No. 1 has criminal antecedents as he is being prosecuted under the Arms Act and non-cognisable case is also lodged against both the applicants.

6 Taking into consideration the nature of injuries and the fact that the co-accused have been enlarged on bail, the applicants deserve pre-arrest bail on some stringent conditions.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application

under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in crime No. 88/2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each and one or two local solvent sureties in the like amount.
- (iii) The applicants shall report to Akkalkot South police station on 1st and 3rd Sunday of each month till framing of charge.
- (iv) The applicants shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)