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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1726 OF 2015

Sharad Bala Patil and (4) Ors ...Applicants.

Vs

The State of Maharashtra & Anr ...Respondents.

Mr Rajiv Patil, Senior Advocate a/with Tanmay R. Vispute,
Advocate for the applicants.

Mr M.K. Kocharekar for Respondent No.2.

Smt. M.H. Mhatre, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 07th January, 2016

P.C.

1. The applicants are apprehending arrest in C.R.No. I-218/2015 for the offences under sections 302, 307, 326, 341, 120-B, 143, 147, 148, 149, 504, 506 of the IPC and sections 4 and 27 of the Arms Act registered with Bhiwandi Taluka Police Station.

2. The complainant, Smt. Ranjana Krishna Patil has lodged the F.I.R. dated 4.9.2015 thereby stating that, on 4.9.2015 at about 11:15 a.m. her son Vishwas and daughter-in-law Sunita along with their child wanted to go to a doctor for giving immunisation dose from their Duster Car. When the car was taken out of the house, on the main road Anil Patil had parked his tempo and due to which the son of the complainant could not take his car out on the main road. When the son of the complainant asked Anil Patil to move his tempo from the spot, accused Anil Patil quarreled with the complainant's son and,

therefore, he brought back the car to his house. The complainant was observing the said incident from her house. As soon as the son of the complainant, namely Vishwas and his cousin brother Bajrang Patil came near the house, the other accused persons, namely Ajay Tulshiram Patil and Vijay Tulshiram Patil, Lakhan Tulshiram Patil, Nitesh Sadanand Patil came in front of her house and started scuffle with Vishwas and Bajrang Patil. The complainant and her daughter-in-law tried to segregate the said scuffle.

The complainant has stated that the accused persons, namely Ajay Patil, Gurunath Patil, Tushar Ananta Gaikar, Anil Patil, Tulshiram Bala Patil, Sadanand Bala Patil, with other four to five persons came at the scene of offence having chopper, sword, wooden rods, iron rods and sickle in their hands. All of them, thereafter, assaulted the husband of the complainant, namely Krishna Patil. They also assaulted all the family members of the complainant, namely Manik Patil, Manohar Patil, Dilip Patil, Bajrang Patil and Vishwas Patil. In the premise the F.I.R. came to be lodged.

3. The record discloses that the husband of the complainant namely Krishna Patil succumbed to the injuries before admission to the hospital. The record further discloses that after completion of investigation charge-sheet has now been filed by the police against the arrested accused persons.

4. The learned counsel for the applicants submitted that the F.I.R. is silent about the names and role played by the applicants. He further submitted that in the F.I.R. the complainant has

mentioned about the presence of four to five other persons and, therefore, as an after thought the present applicants have been implicated in the said crime. He further submitted that as a matter of fact, the applicants were not present on the spot, they did not play any role in the entire crime and they have been falsely implicated.

5. Mr Kocharekar, the learned counsel appearing for the original complainant Smt. Ranjana Patil vehemently opposed the application and submitted that all the injured witnesses have named the applicants and their presence along with weapons at the scene of offence. He further submitted that the applicants were part of the unlawful assembly and were sharing the common intention with other accused persons. It is submitted that taking into consideration the said aspect, at this stage the applicants should not be protected by way of pre-arrest bail. The learned APP produced for my perusal copy of the charge-sheet. The learned APP also tendered on record a chart thereby depicting the names of witnesses who have named the applicants along with the weapons and the injuries caused to the injured witnesses.

6. I have gone through the entire charge-sheet and the chart produced by the learned APP. It is the fact that the names of the applicants are not reflected in the FIR. However, the injured witnesses namely Manik Patil, Dilip Patil, Manohar Patil and Bajrang Patil in their statements have named the applicants as the persons who were holding sickle and wooden sticks in their hands at the relevant time. Smt. Nanda Patil who is the close relative of the victim and injured witnesses in her statement dated 5.9.2015

has stated that accused Vijay Patil gave a blow with the aid of chopper on the stomach of injured Manik Patil. That accused Ajay Patil also assaulted Manik Patil with the aid of chopper. Accused Ajay Patil assaulted injured Manohar Patil with a chopper. Lakhan Patil gave a blow with the wooden rod on the head of Manik and Sadanand Patil inflicted a blow with the aid of sickle on Manik Patil. She has further stated that accused Tulshiram Patil also inflicted blows with the aid of sickle on Manik. That accused Nitesh Patil has inflicted a blow with the aid of sickle on the head of Dilip Patil. That accused Gurunath Mhatre inflicted a blow with a sword on Bajrang. That accused Tushar Gaikar assaulted injured Vishwas with a sword. That accused Anil Patil inflicted blows with the aid of chopper on injured Manik Patil. As far as the present applicants are concerned a general statement has been made by the said witness thereby stating that the applicants namely Sharad Patil (applicant no.1), Sunanda Patil (applicant no.4) and Sita Patil (applicant no.5) with the aid of sickle were assaulting Manik Patil.

7. As far as the injuries caused to Manik Patil are concerned, injury no. 1, 3 and 4 mentioned in the chart submitted by the learned APP are caused by the other arrested persons. As far as the applicants are concerned, the said witness namely Smt. Nanda Patil, has not attributed any specific role to the applicants. After taking into consideration the number of blows mentioned by the said witness which were inflicted on the injured Manik are not substantiated by the version of said witness. Prima facie, it appears to me that the injured persons who are the family

members of the complainant have, as an after thought, implicated the present applicants in the present crime. In view of the peculiar facts and circumstances of the present case, I am inclined to grant pre-arrest bail to the applicants. Hence, the following order :

ORDER

- a) In the event of arrest of the applicants in CR No. I-218/2015 registered with Bhiwandi Taluka Police Station Thane (Rural), they shall be released on their furnishing P.R. bond in the sum of Rs.25,000/-each with one or two separate solvent sureties in the like amount;
- b) The applicants shall attend the Investigating Officer on every Monday between 10:00 a.m. to 12:00 noon till the filing of the charge-sheet;
- c) After filing of the charge-sheet the applicants shall attend Bhivandi taluka Police Station on first Monday of every month till conclusion of the trial;
- b) The applicants shall not tamper with the evidence and influence the prosecution witnesses;
- c) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)