

ANTICIPATORY BAIL APPLICATION NO.1805 OF 2015

Mr. A.P. Mundargi, Senior Advocate i/b. Mr. Kedar Patil, for the Applicants.
Mrs. Rutuja Ambekar, APP for Respondent – State.
Mr. B.J. Dhakale (API), Tilak Nagar police station present.

DATE: 15th MARCH, 2016

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offences punishable under Sections 307, 326, 506(II), 147, 148 and 149 of the Indian Penal Code and under Sections 4 read with 25 of Arms Act and under Sections 37 and 3 of Bombay Police Act in C.R. No. I-140 of 2015 registered with Tilak Nagar police station, Thane. The offence is registered at the instance of one Sachin Palan on 1st November, 2015.

2. It is the case of the prosecution that the election for the Corporation was conducted at Dombivali in the year 2015. The applicants/accused and the complainant were the active workers of the respective political parties. On 1st November, 2015 when the voting was going on, the complainant and his two brothers Pradip and Nitin were going towards the office of their political party and when they reached near the office, suddenly co-accused Subhash Patil who was armed with weapon arrived there with co-accused Gautam and others who were holding a sword, knife and sticks. They all assaulted the complainant and his brothers. The present applicants/accused also assaulted them by sticks and fist blows. The co-accused Gautam assaulted his brother Nitin by knife and he was seriously injured. Nitin was shifted to the hospital immediately. Therefore, the offence is lodged against 6 accused persons and the present 4 applicants/accused are one of them.

3. The learned counsel for the applicants/accused has submitted that the pre arrest bail to the main accused Subhash Patil was rejected by this Court on 16th December, 2015. He submits that other co-accused Gautam was arrested on the spot with sword. He

submitted that the applicants/accused have not committed any offence and they are falsely implicated in this case. One applicant accused Yagnesh Patil is the employee in Kotak Mahinda and there are no antecedents against him. He further submitted that the applicants/accused shall abide by the terms and conditions imposed by this Court if pre arrest bail is granted. He also submitted that earlier the offence was registered under Section 326 of Indian Penal Code but thereafter section 307 of Indian Penal Code is added. He prays for pre arrest bail.

4. The learned prosecutor opposed the anticipatory bail application. She relied on the injury certificate of Nitin Palan. She submitted that this is the offence under Section 307 of Indian Penal Code. She further submitted that the offence is of serious nature and the applicants/accused No. 1 and 2 are involved in the similar type of offences. She requested to reject the application.

5. Perused the first information report and the injury certificate of Nitin Palan. The wounds on the abdomen and chest of Nitin appears grievous. These are the cut lacerated wounds. There is

fracture to the wrist. As per the case of the prosecution, the applicants/accused were not holding any dangerous weapon either sword or knife. They were holding sticks and they have assaulted the complainant and his brother with fist blows and sticks. There is no criminal record against the applicants/accused No. 3 and 4. There are 3 cases pending against applicant/accused Amol Kasabe and 2 cases pending against Ranoba Dede. It appears that the incident has taken place at the time of election. It was a sudden fight. The applicants/accused were not holding any dangerous weapon at the time of incident. It is not the case of the prosecution that the applicants/accused assaulted the complainant and his brother with sword or knife. Hence, I am inclined to confirm pre arrest bail granted earlier by this Court by an order dated 27th November, 2015. With this, I pass the following order with certain conditions.

- a) In the event of arrest, the applicants/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount;
- b) The applicants shall not tamper with the evidence;
- c) The applicants shall not pressurize or threaten the complainant or any other witnesses.

- d) The applicants shall not commit any other offence against the human body or public property.
- e) The applicants shall cooperate with the Investigating Officer and shall attend Tilak Nagar police station on every Monday and Friday in the evening between 7.00 pm to 8.00 pm. for one month.

(MRS.MRIDULA BHATKAR, J.)