

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3460 OF 2017
WITH
CRIMINAL APPLICATION NO. 4378 OF 2017

1. Rahul Hambirrao Mandge
2. Deepak Shantilal Mandge
3. Vishal Hambirrao Mandge ...Applicants

versus

The State of Maharashtra ...Respondent

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Advocate for Applicants : Mr. Gaware Niteen V.
APP for Respondents: Mr. A.S. Sinde
Advocate for Assist to P.P. : Mr. R.K. Temkar
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CORAM : V. K. JADHAV, J.
DATED : 14th AUGUST, 2017

PER COURT:-

1. For the reasons stated in the criminal application No. 4378 of 2017, the same is allowed and disposed of.
2. The applicants are seeking pre-arrest bail in connection with crime No. 175 of 2017 (269 of 2017) registered with Karjat police station, Ahmednagar for the offences punishable under sections 395, 324, 323, 143, 147, 148, 149, 504 and 506 of I.P.C. and Section 25(4) of Arms Act. The application of the applicants with similar prayer bearing criminal M.A. No. 782 of 2017 came to be rejected by

the learned Additional Sessions Judge, Ahmednagar, on 6.7.2017.

3. On 20.6.2017, at about 5.30 a.m. when the complainant was present in his house, present applicants alongwith co-accused came in front of his house and by referring some dispute about agricultural land, assaulted the father of the complainant with the help of deadly weapons like sword etc. The applicants and co-accused had also assaulted the companions of the applicants with the help of said weapons. On the basis of the complaint lodged by Ramesh Appasaheb Tanpure, the present crime came to be registered as against 21 persons. The applicants apprehend their arrest at the hands of the police. Hence, this application.

4. The learned counsel for the applicants submits that, no specific role has been assigned to the present applicants and simply their presence is shown on the spot at the time of the alleged incident. Learned counsel submits that, four days prior to the incident, one of the accused, namely Bapu Ambadas Mandge has lodged a complaint against the present applicants and other persons for having committed the offences punishable under sections 143, 147, 148, 149, 323, 504, 506 etc. of I.P.C. Accordingly, crime bearing No. 268/2017 came to be registered in the same police station. The learned counsel submits that in order to give counter blast to the said

complaint, the present complaint was filed. The learned counsel submits that this court by order dated 26.7.2017 released near about 14 accused persons on pre-arrest bail. So far as those 14 co-accused persons, to whom the court has released on pre-arrest bail, no specific allegations have been made against them in the complaint. The learned counsel submits that, so far as three co-accused persons against whom specific allegations have been made, those three applicants have withdrawn their bail application.

5. Learned A.P.P. submits that there was formation of an unlawful assembly and present applicants were members of the said assembly and as such they are also responsible for the acts of the members of an unlawful assembly. The learned APP submits that the names of the applicants are mentioned in the complaint and they were also armed with weapons and as such, their application for seeking pre-arrest bail also liable to be rejected.

6. On perusal of complaint, it appears that no specific allegations have been made against the present applicants. The complaint came to be lodged against near about 21 persons and specific allegations about beating with the help of deadly weapons have been made only against two accused persons. Even this Court by order dated 26.7.2017 has granted pre-arrest bail to those co-accused

against whom no specific allegations have been made in the complaint. In view of the same, the applicants are entitled for pre-arrest bail. This Court by order dated 10.7.2017 has granted interim pre-arrest bail to the applicants. Hence, I proceed to pass the following order:-

O R D E R

- I. Criminal application is hereby allowed.
- II. The order dated 10.7.2017 stands confirmed on the following conditions:-
 - a) The applicants shall not tamper with the prosecution evidence, in any manner.
 - b) The applicants shall attend the concerned police station once in a week i.e. Every Sunday between 9.00 a.m. to 11.00 a.m. till filing of the charge sheet.
- III. Criminal application is disposed of.

(V. K. JADHAV, J.)

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