

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5627 OF 2017

1. Ashok Chaburao Pagare
Age: 35 years, Occu.: Business,
2. Dipak Subhash Pagare
Age: 35 years, Occu.: Business,
3. Sagar Sona Pagare
Age: 23 years, Occu.: Education,
4. Popat Karbhari Pagare
Age: 28 years, Occu.: Service,
5. Babalu @ Ganesh Sona Pagare
Age: 25 years, Occu.: Education,
6. Shivaji Karbhari Pagare
Age: 32 years, Occu.: Business,
7. Vijay Chaburao Pagare
Age: 25 years, Occu.: Business,
8. Arjun Subhash Pagare
Age: 24 years, Occu.: Education,
9. Malhari Karbhari Pagare
Age: 34 years, Occu.: Business,

All R/o Chitali, Tq. Rahata, Dist. Ahmednagar.

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

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Mr. Sk. M.A. Jahagirdar, Advocate for applicants.
Mr. A.D. Namde, A.P.P. for respondent - State.

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CORAM : V.L. ACHLIYA, J.

DATED : 30th NOVEMBER, 2017

ORDER :

1. The applicants herein apprehending arrest in connection with offence u/s 307, 324, 323, 504, 506, 143, 147 and 149 of I.P.C. registered vide C.R. No. I-104 of 2017 with Shrirampur Tauka Police Station, Dist. Ahmednagar, have preferred this application seeking anticipatory bail

2. Heard the learned Counsel for the applicants and the learned A.P.P. for State.

3. In short, it is the contention of the learned Counsel for the applicants that as a counter blast to the complaint lodged by applicant no.1 – Ashok Pagare leading to registration of offence u/s 143, 147, 149, 324, 323, 504, 506 of I.P.C. and u/s 3(1)(r)(s) and 7 of S.C. & S.T. (Prevention of Atrocities) Act, 1989 registered vide C.R. No. I-103 of 2017 with Shrirampur Taluka Police Station against the informant – Ganesh Chaudhari and Others, false complaint has been lodged against the applicants. It is contended that motorcycle of Navnath Wagh, against whom the complaint was lodged found on the spot. The incident found to be occurred in the locality where the informant was residing. The informant and others came to their house on motorcycle and abused the informant and others in

the name of their caste and assaulted them. In the incident the informant and one Bhagirath sustained injury. He submits that as per medical report, no serious injury was caused to the informant, still offence u/s 307 of I.P.C. has been registered against them. Prior to the incident at 8 p.m., on 12th August, 2017, some of the accuse in C.R. No. I-103 of 2017 had visited the house of the informant and abused them in the name of caste and threatened to assault them. It is contended that during the pendency of the application, applicant no.3 – Sagar Pagare came to be arrested and therefore, application is infructuous to the extent of applicant no.3. It is further contended that if the role of applicant nos. 4 to 9 is examined in commission of offence in the light of the allegations made in F.I.R., then they are only alleged to be present on the spot and not abused the informant. In this view, the learned Counsel submits that applicant nos. 2 to 9 deserves to be released on bail.

4. On the other hand, the learned A.P.P. opposed the application with contentions that there is prima facie case attracted to the offence registered against the applicants. On account of rivalry between the groups of the applicant and the informant and counter cases registered against them, there is every likelihood that they may disturb the peace in village. The learned Counsel submits that the informant had sustained injury over the vital part of the body by means of sword used in the commission of offence by applicant no.1. The sword

used in the commission of offence is yet to be recovered. He further submits that if the applicants are granted anticipatory bail, there is every likelihood that they may indulge into commission of offence of similar in nature.

5. On due consideration of the submissions advanced in the light of the allegations made in F.I.R. and as well as injury report, I am of the view that overt act in the incident has been attracted to applicant nos. 1 to 3. Applicant nos. 4 to 9 are only alleged to be present on the spot. So far as assault on injured person is concerned, the allegations have been attracted against applicant nos. 1 to 3 and Subhash Pagare who is not applicant before this Court. Applicant no.3 is already arrested in the case. Thus, prima facie case is made out to grant anticipatory bail to applicant nos. 4 to 9. In view of specific allegations made against applicant nos. 1 and 2 and their role attributed in the commission of offence as well as nature and seriousness of offence, I am not inclined to grant anticipatory bail to them. So far as apprehension of the prosecution that if the applicants are granted bail, there is every likelihood that they may repeat the offence of similar in nature, same can be avoided by putting some stringent conditions. Hence the following order :-

ORDER

- (i) Application moved by applicant nos. 1 and 2 is rejected.

(ii) Application of applicant no.3 stands disposed of as infructuous in view of his arrest.

(iii) Application is allowed to the extent of applicant nos. 4 to 9.

(iv) In the event of arrest of applicant nos. 4 to 9 in connection with offence u/s 307, 324, 323, 504, 506, 143, 147 and 149 of I.P.C. registered vide C.R. No. I-104 of 2017 with Shrirampur Taluka Police Station, Dist. Ahmednagar, they be released on bail on each of them furnishing bail in the sum of Rs.10,000/- with one surety in the like amount on the following conditions :-

(a) Applicant Nos. 4 to 9 shall not enter into the village Chitali, Tq. Shrirampur, Dist. Ahmednagar till conclusion of investigation and filing of final report in the case.

(b) Applicant nos. 4 to 9 shall appear before the officer in-charge of Shrirampur Taluka Police Station on every Sunday in between 10 a.m. to 11 a.m. to record their appearance till conclusion of investigation.

(c) Applicant nos. 4 to 9 shall not indulge into any offence of similar in nature during the pendency of proceeding against them.

(v) In the event of breach of any of the condition of bail by applicant nos. 4 to 9, anticipatory bail granted to applicant nos. 4 to 9 shall liable to be canceled.

(vi) Application stands disposed of in above terms.

(V. L. ACHLIYA, J.)

SSD