

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 201 OF 2017

1. Bajirao Jaywant Shinde	
2. Sanjay Balwant Shinde	
3. Santosh Vitthal Shinde	
4. Raosaheb Jaywant Shinde	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Mr. Swaraj Jadhav, Advocate for the Applicants.

Mr. Rajan Salvi, APP for Respondent/State.

Mr. I.U. Shah, Police Havaldar, Lasalgaon Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **13th February, 2017.**

P.C.:

This Application is moved by the applicants/accused under section 438 of Cr. P.C. The applicants/accused are prosecuted for the offences punishable under sections 143, 147, 148, 149, 307, 324, 337 and 504 of the Indian Penal Code in C.R. No. I-138 of 2016 registered with Lasalgaon Police Station, Nashik.

2. The incident of assault took place on 3rd November, 2016 at Lasalgaon. It is the case of the complainant Narayan Palwe that his family and the family of applicants/accused, i.e., Shinde family, are on inimical terms on account of boundaries and encroachment of their respective land. On 3rd November, 2016 at around 12 noon, Bajirao Jaywant Shinde, Sanjay Shinde, Raosaheb Shinde and other accused, i.e., around 35 to 40 persons armed with weapons like axe, wooden sticks, iron rod arrived at

Gat No. 64. They abused the complainant and his family members who were working in their field and suddenly applicant/accused Bajirao Shinde assaulted the complainant with axe on his head. Applicant/accused Raosaheb Shinde assaulted witness Vijay Pawle with axe and thereafter the complainant and his associates cried for help. His family members and other persons arrived there to help them and there was a free fight. The complainant and his family members and friends were injured. Thereafter the complainant approached the police and gave information, pursuant to which, the offence was registered by the police against the applicants/accused.

3. The learned counsel for the applicants/accused has submitted that it is a free and sudden fight. It was not pre-meditated attack and the applicants/accused have also registered separate C.R. No. 139 of 2016 at Lasalgaon police Station against the complainant and his family members. They were prosecuted for the offences punishable under sections 324, 504, 143, 147, 149 of Indian Penal Code. He further submitted that the applicants/accused are innocent and they do not have criminal record. The learned counsel submitted that the applicant/accused Bajirao and his family members also were injured.

4. Learned APP opposed the Anticipatory Bail Application. He has submitted that the persons from both the sides have sustained grievous

injuries and it was a free fight. A mob of 35 to 40 persons attacked the complainant and other persons.

5. Perused the FIR, statements of the witnesses and the injury certificates. It appears that 9 persons were injured from Shinde Family and 17 persons were injured from Palwe family. There are no criminal antecedents against the applicants/accused. It was a sudden and free fight and cross complaint in C.R. No. 139 of 2016 was registered. Under such circumstances, considering the submissions and record, interim pre-arrest bail granted to the applicants/accused by order dated 2nd February, 2017 is hereby confirmed with the same bail bonds with the following terms and conditions:

- (i) The applicants-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Monday between 6 p.m. to 8 p.m. till the filing of charge sheet;
- ii) The applicants-accused shall not tamper with the evidence and shall not pressurize or threaten the complainant and his family members;
- iii) The applicants-accused shall not indulge into any criminal activity especially against the complainant and his family members;
- iv) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof.

6. Anticipatory Bail Application is disposed of on above terms.

(MRIDULA BHATKAR, J.)