

Nalawade

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 236 OF 2017
Manish Dhiraj Patil and ors. vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Subhodh Desai i/by A.Sawant for the applicant.
Mrs. P.P.Shinde, APP for the Respondent-State.
Mr. Anant Parad, PI Bhiwandi Town Police Station .

CORAM :A.S.GADKARI, J.
DATE : 10th April, 2017

P.C.

1) The applicants are apprehending arrest in CR No.06/2016 dated 9.1.2016 registered with Bhiwandi City Police Station, Thane under Sections 326, 352, 504 read with 34 of the Indian Penal Code.

2) The first information report is lodged by Anil Dasi. It is alleged that on 8.1.2017 between 7.00 to 7.20 p.m. the applicants who had partly covered their faces with handkerchief have assaulted the complainant with wooden rods on his head and with stone on his left knee. The complainant had expressed probability of the presence of the applicants on the basis of voice of the applicant No.1 and the characters/stature of the other two applicants. In the premise, the first information report is lodged.

3) Mr. Desai, the learned counsel appearing for the

applicant submitted that he has produced CCTV footage of the applicants and they were at the different places on the date and time of the alleged incident. The record reveals that as per the first information report the alleged incident of assault of the complainant was taken place between 7.00 to 7.20p.m. and the CCTV footage which are annexed at Page 16 and 17 would mention that the concerned applicants were present at the said office (their office) at about 7.27p.m. to 7.47p.m. It is submitted by the learned APP. that the distance between the spot of incident and the office of the applicants is hardly 1.1/2 k.m. There is every probability that the applicant may travel distance of 1.1/2k.m. within a period of five minutes from the spot of incident to their office by motor cycle and the said road was not crowded. Hence, the submission of the learned counsel for the applicant thereby taking the stand of alibi according to me does not hold any substance.

4) As far as role played by applicants is concerned, the complainant at the first instance has expressed the probability of the presence of the applicants at the place of offence after hearing the voice of applicant No.1 and by recognizing the physical characters of other applicants through their faces were partly covered by handkerchief. The certificate issued by Dr. Sanjay Yadav dated 10.1.2017 is produced on record by the learned APP. wherein five injuries are shown including two injuries on scalp "CLW", on parietal occipital region have been mentioned in the certificate dated 10.1.2017. The police are yet to recover the weapons in the present crime from the applicants.

The report submitted by the Investigation Officer reveals that the applicant No.1 is also involved in other crime and when he was on bail in the said crime he has committed the present crime. As far as applicant No.3 is concerned he is also involved in three other crimes and when he was on bail he has committed the present crime.

5) After taking into consideration the serious allegations against the applicants, gravity of the offence and the need to recover the weapons used in the crime from the applicants, in view of this Court the applicants does not deserve to be protected by way of pre arrest bail.

6) Application is accordingly rejected.

(A.S.GADKARI, J.)