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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.695 OF 2017

1. Dhanaji Nivrutti Patil	
2. Nitin Shivaji Pawar	...Applicants
Versus	
The State of Maharashtra	...Respondents

Mr.Kuldeep U. Nikam, for the Applicants

Mr.Y.M.Nakhwa, A.P.P for the Respondent-State

API – Bharat Shinde, Miraj Rural Police Station, District – Sangli.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.

2. By this application, the applicants seek pre-arrest bail in connection with C.R. No.63 of 2017 registered with the Miraj Rural Police Station, District – Sangli, for the alleged offences punishable under

Sections 307, 326, 325, 324, 323, 143, 144, 147, 148 and 149 of the Indian Penal Code.

3. Learned Counsel for the applicants submit that with respect to the incident dated 18th March, 2017, the applicant No.2 has also lodged a complaint being C.R.No.59 of 2017, as against 9 persons including the complainant alleging offences punishable under Sections 307, 143, 147, 148, 146, 504, 506 and 427 of the Indian Penal Code. He submitted that in the said incident the applicants' side have also received grievous injuries. He further submitted that infact, in the present CR i.e. C.R.No.63 of 2017, all the injured have received simple injuries. According to the learned counsel, no offences as alleged are disclosed, qua the applicants.

4. Learned APP opposed the application. He submitted that the applicants have been specifically named by the complainant – Namdev Katkar in his complaint and that specific overt acts have been attributed to the applicants. He submitted that 4 persons have been injured in the said incident and that out of the 4 persons, one person has received a grievous injury. He submitted that as far as applicant no.1 is concerned, there are 5

antecedents as against him, which are of similar nature.

5. Perused the papers. The incident in question has taken place on 18th March, 2017 at about 10.30 p.m. The incident has taken place inside the complainant's premises. It appears from the complaint lodged by the complainant – Namdev, that all the accused including the applicants had come to the spot and that they were armed with koyta, sticks and swords. It is alleged that the accused pelted stones on the complainant's house. It is specifically alleged by the complainant, that applicant no.2 picked up a stone and threw it on Rahul Ghaste, as a result of which Rahul was injured. The applicants are also alleged to have assaulted the complainant with koyta and sticks. The applicant no.2 is also alleged to have assaulted Rahul with a stick on his right leg and the applicant no.1 is alleged to have assaulted the complainant with a sword on his chest and shoulder. The applicants are also alleged to have assaulted other persons. The spot panchanama shows that blood stained stones, sticks and swords were found in the complainant's premises. The injury certificate shows that 4 persons have received simple injuries viz. Rahul Ghaste, Sulochana Katkar, Namdev Katkar and Rahul Katkar. All of them have received 3 to 4 injuries

on their persons. One of the injury sustained by Rahul Ghaste is a grievous injury i.e. fracture of the right leg. The injuries are consistent with the ocular evidence. Merely, because there is a cross case filed by the applicant no.2 as against the complainant, does not mean that the applicants are entitled to pre-arrest bail, as a matter of right. Ultimately, it would depend on the evidence on record. It is not in dispute that some of the accused in the cross case i.e. C.R.No.59 of 2017, lodged by the applicant no.2 have been arrested and are presently lodged in custody. There are 5 antecedents as against applicant no.1 between the period 2009 to 2015.

6. Considering the nature of allegations against the applicants, which are consistent with the injuries sustained by the complainant and others, this is not a fit case to grant pre-arrest bail to the applicants.

7. Hence, the Application for pre-arrest bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)