

Anand

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

ANTICIPATORY BAIL APPLICATION NO.878 OF 2017

1. Gurappa Balappa Hipparagi .Applicants
2. Siddhappa Balappa Hipparagi
3. Girmalla alias Girish Siddhappa
Hipparagi

Vs.

The State of Maharashtra .Respondent

Mr.K.S.Patil, Advocate, for the Applicants

Mr.Prashant Jadhav, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C.R.No.14 of 2017 registered with the Jat Police Station, District – Sangli, for the alleged offences punishable under Sections 302, 307, 324, 143, 147, 148, 149 & 504 of the Indian Penal Code and Section 135 of the Bombay Police Act.

3. The incident has taken place on 26.01.2017 at about 9.00 a.m. It is alleged by the Complainant – Shivkant Pirgonda

Patil, that the Applicants alongwith seven others assaulted him, his father and other relatives with axe, iron pipes and sticks. He has stated that in the said assault, the Complainant's father - Pirgonda Patil expired, due to the injuries sustained by him. A complaint was lodged as against the Applicants and others on the very same day.

4. Learned counsel for the Applicants submits that it is a case of free fight. He submits that with respect to the same incident, the Applicants' side have also lodged a cross complaint. He submitted that the Applicant No.3 has lodged an FIR, being C.R.No.16 of 2017 with the Jat Police Station, District - Sangli, alleging offences punishable under Sections 324, 504, 143, 147, 148 & 149 of the Indian Penal Code and under Section 135 of the Bombay Police Act, on 28.01.2017, as against the Complainant in the present C.R. and others. Learned counsel for the Applicants further submitted that the Applicant No.2 has sustained a comminuted displaced fracture anterior wall of frontal sinuses. (Posterior wall of frontal sinus is intact). He further submitted that it is a case of free fight in which the deceased and others sustained injuries. He submitted that there is a long standing dispute with respect to the agricultural land between the parties

and hence, the possibility of false implication cannot be ruled out.

5. Learned APP opposes the Application. He submitted that the Applicant No.3 had assaulted the deceased - Pirgonda Patil with an iron rod on his head. He submitted that the deceased has sustained injuries over right parieto temporal region, over right frontal region, contusion over lateral aspect of right arm, puncture wound over anterior aspect of right leg and lacerated wound over anterior aspect of left leg. He submitted that the cause of death is stated to be 'Head injury with fracture bilateral tibia and fibula'. He submitted that in the said incident, apart from Pirgonda Patil (deceased), who succumbed to the injuries on the very same day, five others (including Complainant) have received injuries. He submitted that Gaudappa Patil(injured) has received an injury on his left parietal region. He further submitted that Chidanand Madbhavi was also assaulted in the said incident and that the Injury Certificate of Chidanand Madbhavi shows, that he has sustained a fracture of left frontal bone extending to left orbital region. The fracture of skull is a compound fracture and is stated to be a grievous and serious injury. The said injury is stated to have been caused by Sadashiv.

6. Perused the papers. The incident has taken place on 26.01.2017 at about 9.00 a.m. In the said incident, according to the Complainant - Shivkant, the Applicant No.3 - Girmalla and Shankar are alleged to have assaulted Pirgonda Patil (deceased) on his head, back and legs with axe, iron rod and stick. A specific role has been attributed to the Applicant No.3 - Girmalla. The Medical Certificate of Pirgonda Patil is consistent with the ocular evidence. Considering role of the Applicant No.3, this is not a fit case to grant pre-arrest bail to him.

7. As far as the Applicant Nos.1 & 2 are concerned, they are alleged to have assaulted the Complainant and four injured with sticks. The Applicant No.1 is aged 70 yrs and the Applicant No.2 is aged 65 yrs. The Applicant No.1 has received simple injuries, whereas, the Applicant No.2 has sustained a comminuted displaced fracture anterior wall of frontal sinuses. (Posterior wall of frontal sinus is intact).

8. Considering the age of the Applicant Nos.1 & 2 and the fact, that they have not assaulted the deceased, their Application is being considered sympathetically. It is also not in dispute, that in the said incident, the Applicant No.2 has also

sustained a grievous injury.

9. Considering the aforesaid, the Application is partly allowed and the Applicant Nos.1 & 2 i. e. Gurappa Hipparagi and Siddhappa Hipparagi are granted pre-arrest bail on the following terms and conditions:-

O R D E R

(i) In the event of arrest, the Applicant Nos.1 & 2 be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/- each** with one or two sureties in the like amount;

(ii) The Anticipatory Bail of the Applicant No.3 - Girmalla Hipparagi stands rejected;

(iii) The Applicant Nos.1 & 2 shall attend the concerned Police Station on the **first Monday of every month** between **11:00 a.m. to 12:00 noon** for a period of one year from today;

(iv) The Applicant Nos.1 & 2 shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant Nos.1 & 2 shall inform their latest place of residence and mobile contact number or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the

concerned Police Station;

(vi) The Applicant Nos.1 & 2 to cooperate with the conduct of the trial.

10. The Application is partly allowed in the aforesaid terms and is accordingly disposed of.

11. As far as the Applicant No.3 - Girmalla Hipparagi is concerned, 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)