

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1033 OF 2017**

Pankaj Pandurang Kolekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 986 OF 2017**

Shalivahan Bhagwat Kolekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 540 OF 2017
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 986 OF 2017**

Ramchandra Keshav Gaikwad	...Intervener
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IN THE MATTER BETWEEN :

Shalivahan Bhagwat Kolekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 987 OF 2017**

Amar Waman Kolekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

IN THE MATTER BETWEEN :

Amar Waman Kolekar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Sarang Satish Aradhye for the Applicant in ABA/1033/2017

Mr. A. P. Mundargi, Sr. Counsel i/b Mr. Sarang Satish Aradhye for the Applicants in ABA/986/2017 & ABA/987/2017

Mr. S. R. Agarkar, A.P.P for the Respondent-State in ABA/1033/2017

Ms. S. S. Kaushik, A.P.P for the Respondent-State in ABA/986/2017 & ABA/987/2017

Mr. C. G. Patil for the Intervener in APPP/540/2017 & APPP/539/2017

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JULY, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By these applications, the applicants seek pre-arrest bail in connection with C.R. No. 240 of 2017 registered with the Pandharpur Taluka Police Station, Pandharpur, Solapur, for the alleged offences punishable under Sections 307, 143, 147, 148, 149 of the Indian Penal Code.

3. Learned Senior Counsel for the applicants in ABA/986/17 and ABA/987/17 submits that the allegations as against the applicants are false and baseless. He submitted that the incident is an outcome of an earlier incident, which had taken place on 8th May, 2017, as the complainant had molested one Radhika. He further submitted that although it is alleged by the complainant that he was assaulted with sword, axe and sticks, the injury certificate of the complainant shows that he has only sustained one CLW on his scalp and that the said injury is a simple injury. He submits that applicant-Amar Kolekar has no antecedents, however, as against applicant-Shalivahan, there is one case registered against him under Section 353 of the Indian Penal Code. He makes the said statement on the telephonic instructions taken today, from applicant-Shalivahan.

4. Mr. Aradhye, learned Counsel for the applicant-Pankaj in ABA/1033/2017 submits that there are no allegations that the applicant was present in the said incident or that he assaulted the complainant. He fairly submits that there is one case, which is registered as against applicant-Pankaj for an offence punishable under Section 307 of the Indian Penal Code.

5. Both the learned Counsel for the applicants submit that the applicants have attended the concerned Police Station, as directed by this Court vide orders dated 9th June, 2017 and 23rd June, 2017.

6. Learned A.P.P opposed the applications. Despite the matters being adjourned on two occasion, the Investigating Officer is not present today. Learned A.P.P although states that the applicants have not reported, learned Counsel for the applicants have tendered copies of the attendance diaries. The same are taken on record. It bears the stamp of the police station.

7. Learned Counsel for the intervener supports the learned A.P.P. He submits that the applicant-Shalivahan is the instigator, pursuant to which, the incident took place. He submitted that although the injury is stated to be simple, the complainant had 13 stitches on his scalp. He submits that the applicants have antecedents.

8. Perused the papers. The incident has taken place on 9th May, 2017 at about 12:00 noon. According to the complainant, when he was on his way to Pandharpur in his four-wheeler, a Safari Car overtook him, stopped his car and 6 to 7 people got down from the said Safari Car. He has further stated that apart from the said persons, there were other persons who came on motorcycles and that the said persons were armed with swords, axe, sticks and wooden logs. He has stated that the applicant-Shalivahan Kolekar and applicant-Amar Kolekar got down from the vehicle, held his collar and pulled him out of the vehicle and questioned him, as to why he had opposed them in the Grampanchayat election and also the Panchayat Samittee. The said persons are alleged to have threatened him with dire consequences and are stated to have assaulted him with fist and kick blows. According to the complainant, the persons who

had come on motorcycles, thereafter started assaulting him with sticks and wooden logs. He has stated that Vaibhav Kolekar assaulted him with the handle of the axe on his head, as a result of which, he sustained an injury. Thereafter, applicant-Shalivahan is stated to have instigated the accused to kill the complainant. Pursuant to which, all the persons are alleged to have assaulted him on his back, wrist and chest. The injury certificate of the complainant issued by the Sub-District Hospital, Pandharpur, shows that the complainant had sustained one CLW on his scalp. The injury is stated to be a simple injury. The history given by the complainant in the said Certificate is assault by stone.

9. As far as applicants-Shalivahan and Amar are concerned, they are alleged to have assaulted the complainant with stick and fist blows and have been named in the FIR. As far as applicant-Pankaj is concerned, he has not been named in the FIR, but has been named subsequently in the supplementary statement. No role has been assigned to applicant-Pankaj. As far as antecedents are concerned, it is informed that there is a case under Section 353 as against Shalivahan and a case under Section 307 *qua* Pankaj.

10. In the peculiar facts of this case, considering the applicants' role, custodial interrogation of the applicants is not required. Accordingly, applications are allowed and the applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount;
- (ii) The applicants shall report to the Investigating Officer of the concerned Police Station as and when called, till the filing of the charge-sheet or for a period of three months, whichever is earlier;
- (iii) The applicants shall not attempt to contact or influence the complainant, witnesses or any person concerned with the case;
- (iv) The applicants to cooperate with the conduct of the trial.

11. The applications are allowed in the aforesaid terms and are accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

13. In view of the above, intervention applications being Criminal Application Nos. 540 of 2017 and 539 of 2017, do not survive. The same stand disposed of.

14. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.