

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.909 OF 2017
WITH
CRIMINAL APPLICATION NO.496 OF 2017

Shivaji Hema Dhumal and others

Applicants

versus

The State of Maharashtra

Respondent

Smt.S.T.Mishra for Applicant.

Smt.Veera Shinde, APP, for State.

Ms.Snehal Sanap for original complainant.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 16th June 2017

PC :

1. This is an application for anticipatory bail in connection with CR No.I-25 of 2015 registered with Murbad Police Station for offences under Sections 307, 326, 324, 323, 120B, 141, 143, 148, 149, 427, 341, 504 of Indian Penal Code.

2. It is the prosecution case that the accused had conspired to assault the complainant and his family members on the ground that the complainant was providing information against the Applicants-accused that they are carrying on business of illicit liquor. It is further alleged that on the date of incident i.e. on 11th February 2017, a mob of several people, who were armed with dangerous

weapons like sword, sticks, stones etc; had attacked the complainant and others. It is alleged that the Applicants were the conspirators committed the crime and had also participated in the crime. The role attributed to Applicant no.3 is that he had assaulted the wife of the complainant along with others by stick. The role attributed to Applicant no.5 is that he had assaulted some persons along with others by wooden stick. Similar role is also attributed to Applicant nos.1, 2 and 4. It is alleged that Applicant no.6 had assaulted by stone.

3. During the course of investigation, about 23 persons were arrested. The accused who were attributed the role of using dangerous weapons, were arrested and they are granted bail.

4. Learned advocate for the Applicant submitted that Applicant nos.1,3,4 and 6 are senior citizens. It is further submitted that no specific overt act is attributed to the Applicants. It is submitted that according to the prosecution, the Applicants were armed with wooden sticks. She submitted that there was no corresponding injuries attributed for using the sticks. She submitted that the persons who were attributed major role have been arrested and granted bail.

5. Learned APP opposed the application. She submitted that the accused have conspired to assault the complainant since he was against the illicit liquor business conducted by the Applicants-accused. She further submitted that the Applicants were part of a mob who had committed the serious offence and their custody is necessary for the

purpose of investigation. She submitted that the application preferred by the co-accused has been rejected by this Court.

6. Learned advocate for intervenor/original complainant submitted that the Applicants had participated in the crime. She further submitted that if the Applicants are released on bail, they would continue with their activities of illicit liquor business. She further submitted that the Applicants would tamper with the evidence. It was also submitted that a cross case has been filed against the complainant at the instance of accused. Hence, the application preferred by the Applicants may be rejected.

7. I have perused the first information report. The role attributed to the Applicants is that they were armed with sticks in the group of several persons. There is nothing to indicate that any serious injuries are sustained by the witnesses on account of assault by the Applicants. The main persons who are armed with the dangerous weapons, are already released on bail. The co-accused whose application is rejected by this Court, was attributed the role of carrying dangerous weapon like sword and assaulting the witnesses. Hence, that application was rejected. However, considering the role attributed to the Applicant and the fact that Applicant nos.1,2,3,4 and 6 are aged about 72, 71, 61, 60 and 57 years old persons, and considering the fact that there are no criminal antecedents against the Applicants, I am inclined to allow this application.

8. Hence, I pass following order :

ORDER

- (i) The Anticipatory Bail Application is allowed;
- (ii) In the event of arrest of Applicants in connection with CR No.I-25 of 2015 registered with Murbad Police Station, the Applicants may be released on bail on furnishing PR bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;
- (iii) The Applicants are directed to attend Murbad Police Station once in a week, on every Wednesday between 11.00 a.m. and 2.00 p.m. till filing of charge sheet;
- (iv) The application is disposed of;
- (v) In view of disposal of anticipatory bail application, Criminal Application No.496 of 2017 is disposed of.

(PRAKASH D. NAIK, J.)

MST