

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1087 OF 2017

Nitesh Prabhakar Patil	Applicant
versus	
The State of Maharashtra	Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.1088 OF 2017

Mandesh Prabhakar Patil	Applicant
versus	
The State of Maharashtra	Respondent

Mr.V.V.Purwant for Applicants.

Mr.Ameet Palkar, APP, for State in ABA No.1087/2017.

Smt.J.S.Lohokare, APP, for State in ABA No.1088/2017.

PSI Kature, Narpoli Police Station, present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 27th June 2017

PC :

1. The Applicants are seeking anticipatory bail in connection with CR No.I-99/2017 registered with Narpoli Police Station, District Thane under Sections 143, 147, 149, 307, 354, 452, 323 and Section 504 of Indian Penal Code. The first information report ('FIR') was registered on 10th March 2017.

2. The prosecution case is that the complainant Madhukar Gaikwad is the resident of Bhivandi. On 10th March 2017, at about 7.30 a.m., some children from the locality had visited his house and demanded donation for holi festival. He refused to give any

donation. The children abused him and left the house. Thereafter the accused including the Applicants visited the house of the complainant and abused him on account of the fact that he had not given the donation to children. The Applicant Nitesh Patil and co-accused Pravin Patil gave a blow on the neck and on the head of complainant by iron fighter. The other co-accused including Applicant Mandesh Patil assaulted him by fist and kick blows.

3. Learned advocate for the Applicant submitted that they have been falsely implicated in the crime. He submitted that from the medical certificate it is apparent that the injured had sustained simple injuries. He further submitted that an FIR being I-900/2017 was registered against present complainant on 11th March 2017 under Sections 354, 323, 504 of Indian Penal Code and Sections 7 and 8 of The Protection of Children from Sexual Offences Act and since then the complainant is absconding. He submitted that the version of the Applicant herein in the FIR lodged against the complainant appears to be probable.

4. Learned APP opposed the application. It is submitted that the complainant as well as the eye witnesses have attributed overt acts to the Applicants. It is submitted that although injury certificate refers to simple injuries, however, the medical officer had opined that the injured would be required to undergo the test to find out the seriousness of the injuries sustained by him. However, on account of counter FIR registered against the complainant herein, he is not available. He further submitted that the injuries may be simple but the Applicants have played a role in assaulting the complainant on account of demand for donation for holy festival. Learned APP

further submitted that accused Pravin Patil was arrested and iron fighter has been recovered from him. The custody of Nitesh Patil is required for recovery of the weapon used by him.

5. I have perused the FIR. The Applicant Nitesh Patil has been attributed the role of assaulting the victim. The investigating authorities have also recorded the statements of eye witnesses which corroborates the version of complainant. The said Applicant has allegedly used iron fighter which is yet to be recovered. Hence, custody of Applicant Nitesh Patil is necessary. The role assigned to another Accused Mandesh Patil is that he has assaulted the complainant by fist and kick blows. Hence, I am inclined to allow the application preferred by Applicant Mandesh Patil.

6. Hence, I pass following order :

- (i) Anticipatory Bail Application No.1087 of 2017 is rejected;
- (ii) Anticipatory Bail Application No.1088 of 2017 is allowed;
- (iii) In the event of arrest of Mandesh Prabhakar Patil, the Applicant in Anticipatory Bail Application No.1088 of 2017, in connection with CR No.I-99/2017 registered with Narpoli Police Station, District Thane, he may be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) The Applicant Mandesh Patil is directed to report Narpoli Police Station once in a week on every Monday between 10.00 a.m. and 12.00 noon till filing of charge sheet;

(v) The Applicant Mandesh Patil shall not tamper with the evidence and witnesses;

(vi) Anticipatory Bail Application No.1088 of 2017 stands disposed of, whereas, Anticipatory Bail Application No.1087 of 2017 stands rejected.

(PRAKASH D. NAIK, J.)

MST