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

ANTICIPATORY BAIL APPLICATION NO.1147 OF 2017

Arun Damu Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.1155 OF 2017

1. Vikas Arjun Yadav
2. Akash Shahaji Patil
3. Anantrao Vitthal Patil
4. Ganesh Raghunath Yadav
5. Pramod Raghunath Yadav
6. Ramesh Gujar Mane

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr.Satyavrat Joshi i/b Mr.B.V.Salunkhe, for the Applicant for the Applicant in ABA No.1147 of 2017.

Mr.N.J.Mohite i/b Mr.J.D.Mane, for the Applicants in ABA No.1155 of 2017.

Mr.S.S.Hulke, A.P.P for the Respondent-State in ABA No.1147 of 2017.

Mr.S.S.Pednekar, A.P.P for the Respondent-State in ABA No.1155 of 2017.

PSI – V.S.Gaikwad, Pandharpur Taluka Police Station, Solapur.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th 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. 279 of 2017 registered with the Pandharpur Taluka Police Station, Solapur Rural, for the alleged offences punishable under Sections 353, 333, 332, 379, 504, 506, 143, 147, 148, 149, of the Indian Penal Code and under Sections 9 and 15 of the Environment Protection Act and under Section 135 of the Bombay Police Act.
3. Learned Counsel for the Applicant in Anticipatory Bail Application No.1147 of 2017 submits that the applicant – Arun Damu Yadav has not been named in the FIR. He submits that there is nothing in the FIR to show that the applicant was present at the spot and that he assaulted the complainant.

4. Learned Counsel for the Applicants in Anticipatory Bail Application No.1155 of 2017 submits that except the applicants - Vikas Arjun Yadav and Pramod Raghunath Yadav, none of the applicants have been named in the FIR. He submits that there is nothing to show that the applicants i.e. Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, were present at the spot.

5. Learned APPs appearing in both the applications opposed the applications. They submitted that the complainant-Balasaheb Sadashiv Kshirsagar, a Police Head Constable was assaulted in the course of his official duty while taking the sand to the police station. They submit that the complainant has sustained grievous injuries on his person. They further submitted that as far as the applicant – Arun Yadav is concerned, he has been specifically named by one Mahadev Maasal. As far as applicants - Vikas Yadav and Pramod Yadav are concerned, it is submitted that the said applicants have been named in the FIR and by the witness – Mahadev Maasal in the statements. They did not dispute the fact, that as far as applicants - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, in Anticipatory Bail Application No.1155

of 2017 are concerned, they have not been named by any of the witnesses, in the statements.

6. Perused the statements. The incident took place on 26th May, 2017 at about 10.30 p.m. at Tanali Village, Pandharpur, District - Solapur. It is alleged by the complainant-Balasaheb Sadashiv Kshirsagar, a Police Head Constable, that some villagers had spotted the tractor which was illegally transporting sand from Maan River. According to the prosecution, when the seized truck carrying illegal sand was being taken by the complainant and others to the police station, about 12 to 14 persons came on 5 to 6 motorcycles and stopped the said vehicle. It is alleged that the applicant – Arun Yadav, questioned the complainant, why he was taking the said truck containing sand to the police station. The applicant – Arun Yadav is alleged to have abused the complainant. It is further alleged that 12 to 14 persons climbed on the tractor, abused the complainant and started assaulting him. It is further alleged that the applicant – Arun Yadav, the owner of the tractor exhorted the others, not to leave the complainant and asked them to assault the police, pursuant to which, all the accused assaulted the complainant. One of the persons is also alleged to have

assaulted the complainant, with a fighter on his face. The witnesses have specifically named the accused who was assaulting the complainant. It appears that there are eye-witnesses to the said incident. The statements of the witnesses show that the tractor was owned by the applicant – Arun Yadav. It also appears that the applicant – Arun Yadav exhorted the people, who had come with him, to assault the police i.e. the complainant. It also appears that the applicants - Vikas Yadav and Pramod Yadav in Anticipatory Bail Application No.1147 of 2017, have been specifically named by the witnesses. The injury certificate shows that the complainant has sustained 2 grievous injuries and 2 simple injuries. As far as the applicant – Arun Yadav and applicants – Vikas Yadav and Pramod Yadav, are concerned, they have been specifically named by the witnesses and specific roles have been attributed to them. As far as applicants - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, in Anticipatory Bail Application No.1155 of 2017, are concerned, they have not been named by any of the witnesses. There are no antecedents, qua the said 4 applicants.

7. Considering the aforesaid, the Anticipatory Bail Application No.1147 of 2017 of applicant – Arun Yadav, is rejected. As far as Anticipatory Bail Application No.1155 of 2017 is concerned, the prayer for pre-arrest bail of applicants - Vikas Arjun Yadav and Pramod Raghunath Yadav, is rejected. As far as applicants - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, in Anticipatory Bail Application No.1155 of 2017, are concerned, the said applicants are granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the applicants - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, 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 - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, shall report to the Investigating Officer of the concerned Police Station on 17th, 18th,

and 19th July, 2017 between 10.00 a.m. to 12.00 noon, and thereafter, as and when called, till the filing of the charge-sheet or for a period of three months from today, whichever is earlier;

(iii) The applicants - Akash Shahaji Patil, Anantrao Vitthal Patil, Ganesh Raghunath Yadav and Ramesh Gujar Mane, shall not contact the complainant, witnesses or any person concerned with the case.

8. Anticipatory Bail Application No.1155 of 2017, is partly allowed in the aforesaid terms.

9. Both the Applications are disposed of accordingly.

10. It is made clear that the observations made herein are *prima facie* and are confined to these applications.

11. If an application for Regular Bail is filed by the applicant – Arun Yadav in Anticipatory Bail Application No.1147 of 2017 and applicants – Vikas Yadav and Pramod Yadav, in Anticipatory Bail

Application No.1155 of 2017, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

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

(REVATI MOHITE DERE, J.)