

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1283 OF 2017

Mahesh alias Pintu Ankush Yadav .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.S.Tambe i/b. Mr.R.Thobade, Advocate, for the Applicant
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.07.2017

P.C.

. Heard learned counsel for the Applicant.

2. By this Application, the Applicant seeks 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, under Sections 9 & 15 of the Environment Protection Act and under Section 135 of the Bombay Police Act.

3. Learned counsel for the Applicant seeks bail on the ground

of parity. He submits that similarly placed co-accused were granted pre-arrest bail by this Court (Coram: Revati Mohite Dere, J.) vide Order dated 10.07.2017. He submits that the Applicant has not been named in the FIR nor is there anything to show that the Applicant was present at the spot and that he assaulted the Complainant.

4. Learned APP on instructions of the investigating officer, who is present in Court, does not dispute the fact, that the role of the Applicant is similar to that of other co-accused, who have been granted pre-arrest bail by this Court.

5. The incident took place on 26.05.2017 at about 1.30 p.m. at village – Tanali, Taluka- Pandhapur, District-Solapur. According to the Complainant – Balasaheb Sadashiv Kshirsagar, a Police Constable, some villagers had stopped the tractor which was illegally transporting sand from Mann river. According to the prosecution, when the seized tractor carrying illegal sand was taken by the Complainant and others to the police station, about 12-14 persons came on 5-6 motor cycles and stopped the said vehicle. Co-accused – Arun Yadav is alleged to have questioned the Complainant, as to why he was taking the said tractor to the police station. Co-accused – Arun Yadav is also alleged to have

abused the Complainant. 12-14 persons are alleged to have climbed on the tractor, abused the Complainant and assaulted him. Co-accused – Arun Yadav, owner of the tractor is thereafter, alleged to have exhorted others, not to leave the Complainant, pursuant to which all the accused assaulted the Complainant. One of the persons is also alleged to have assaulted the Complainant with a fighter. There are eye witnesses to the said incident, who have specifically named the accused who assaulted the Complainant. As far as the present Applicant is concerned, he has not been named by any of the eye witnesses. It is not in dispute, that his role is similar to that of co-accused i. e. Akash, Anantrao, Ganesh and Ramesh, who were granted pre-arrest bail by this Court. There are no antecedents qua the Applicant.

6. Considering the aforesaid, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions:-

ORDER

(i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.20,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on **27th, 28th & 29th July, 2017** between **10.00 a.m. and 12.00 noon** and thereafter, as & when called for by the investigating officer till the filing of the charge-sheet or for a period of three months whichever is earlier;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

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

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)