

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1312 OF 2017

Bandopant/Bandu Rajaram Patil .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.P.G.Chavan, Advocate, for the Applicant

Mr.S.R.Agarkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 03.08.2017

P.C.

. Heard learned counsel for the parties.

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 Section 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 as well as on merits. He submits that the Applicant has not

been named in the FIR and was named for the first time in the 3rd remand report. He submits that the Applicant is sought to be falsely implicated in the said case.

4. Learned APP opposes the Application. Learned APP has filed an Affidavit of PSI – Vikram Sitaram Gaikwad attached to the Pandharpur Taluka Police Station, Solapur(Rural). According to the learned APP, it is the Applicant who assaulted a Police Head Constable – Balasaheb Sadashiv Kshirsagar with a fighter on his face. He submits that the Applicant's name transpired only subsequently, as the Applicant hails from a neighbouring village and as such, was not known to the Complainant. He further submits that there are CDR records to show that the Applicant was in touch with co-accused – Arun Yadav.

5. Perused the papers. According to the Complainant – Balasaheb Sadashiv Kshirsagar, he was working as a Beat Jamadar, at Khardi. He has alleged that on 26.05.2017, when he was at his residence at 10.00 p.m., A. Jadhav (Thane Amaldar) called him on his mobile phone and informed him that the people of village – Tanali had spotted a tractor, transporting sand illegally from Maan river. When the Complainant reached the spot alongwith Police Constable – Mane on

his bike at 10.30 p.m., he saw that the Sarpanch, President, of the Tanta Mukti Samiti and other people had stopped the tractor, which was connected to a dumping trailer. He has stated that the people of village – Tanali, handed over the tractor to him, which was loaded with illegal sand. On enquiry about the owner of the tractor, he was informed that the said tractor belonged to Arun Damu Yadav, R/o. village – Marpur. According to the Complainant, when he was proceeding with the tractor towards the police station, 12-15 people came on 4-5 motor cycles near the tractor and assaulted the Complainant. Pursuant thereto, the aforesaid complaint was lodged. During investigation, 8 persons were arrested. It appears that during investigation, it was learnt that the Applicant had assaulted the Complainant with a fighter. The Medical Certificate of the Complainant shows that the Complainant had sustained two CLWs and two contusions. The CLW injuries are stated to be grievous injuries, whereas, the two contusions are stated to be simple injuries. Apart from the aforesaid, there is CDR record to show, that the Applicant was in touch with co-accused – Arun Yadav, owner of the tractor. The CDR record shows that the Applicant and the co-accused – Arun Yadav were in contact with each other before and after the incident. It also appears that although, the Applicant is a resident of village – Mangalwedha, on the day of the incident i. e. 26.05.2017 at

about 10.00 p.m., his mobile tower location shows that he was at the place of incident i.e. Tanali-Kasegaon Road, Pandharpur.

6. Considering the material on record, custodial interrogation of the Applicant is necessary. It is also pertinent to note, that the Applicant had not only obstructed a police personnel from performing his official duty, but, had also assaulted him with a fighter. Considering the same, this is not a fit case to grant pre-arrest bail to the Applicant. Hence, the Application stands rejected.

7. It is made clear, that the observations made herein are prima facie for deciding the aforesaid application and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)