

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1449/2017

1. Seema Shivaji Shendge
2. Anjana Vithal Shendge .. Applicants
vs
State of Maharashtra .. Respondent

with **ANTICIPATORY BAIL APPLICATION NO.1538/ 2017**

1.Shivaji Kjisan Shendge
2.Nana Rajendra Shendge .. Applicants
vs
State of Maharashtra .. Respondent

Mr.Prashant Hagare for Applicants
Mr.Bhalchandra S.Shinde I.b Mr.Ganesh Bhujbal for
Orig.Complainant
Ms.A.A.Takalkar APP in ABA No.1449/2017
Mr.S.V.Gavand APP for ABA No.1538/2017

CORAM : T.V.NALAWADE, J
DATE: 1 SEPTEMBER 2017

P.C.

1. Both Applications are filed for grant of anticipatory bail in C.R.No.217 of 2017 registered in Walchand Nagar Police station, Pune (Rural) for offences punishable under sections 307, 148,149,504,506 etc of IPC.

2. Both sides are heard.

3. Papers of investigation were made available for perusal of this Court.

4. There was previous enmity between Shivaji Kisan Shendge Applicant from the second proceeding and the first Informant. It is alleged that due to previous enmity the incident in question took place. Allegations are made that on 16.7.2017 at about 6.30 p.m. in presence of the first Informant his brother Deepak aged 43 years was assaulted by Applicant in proceeding Application No.1538 of 2017. Allegations are made that Vithal Shendge was having knife and when he was inflicting stab injuries other accused like Nana Shendge had held him and the remaining persons like Shivaji Shendge, Kisan Shendge were assaulting by use of stones and they left only when Deepak collapsed on the spot. Allegations are made against the Applicant in proceeding Application No.1449 of 2017 that during the incident they were instigating the assailants.

5. MLC shows that as many as 7 stab injuries were found on the person of Deepak. These stab injuries had caused damage to the internal organs. It can be said that Deepak was fortunate and so he survived. As there are specific allegations against the Applicants from proceeding Application No.1538 of 2017 and they caused the aforesaid injuries and section 149 of Code of Criminal Procedure, 1973 is available against them and during the incident, it was expressed that they were there to finish Deepak and as Deepak had in the past assaulted Shivaji, this Court holds that discretionary relief cannot be given to the Applicants in proceeding Application No. 1538 of 2017.

6. The circumstantial evidence can be collected only after arrest of these Applicants and it can be said that due to their absence, their custodial interrogation is hampered and so custodial interrogation is a must and only after that weapons and clothes of the Applicants can be taken over. However, relief can be granted to the ladies as allegation made against them show that they did not make actual assault.

7. So Application of ladies i.e. Anticipatory Application No.1449 of 2017 is allowed. Interim relief already granted in their favour is confirmed.

8. Anticipatory Bail Application No.1538 of 2017 stands rejected.

(T.V.NALAWADE, J)