

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

ANTICIPATORY BAIL APPLICATION NO. 1560 OF 2017

Tukaram Jagannath Bhosale & Ors. ... Applicants

V/s.

The State of Maharashtra ... Respondent

Mr. Rahul Dhaigude for the Applicant.
Mr. S.H.Yadav, APP for the Respondent/State.
API Pravin Patil, attached to Dahiwadi P. Stn.

**CORAM : A.S.GADKARI, J.
DATE : 07th SEPTEMBER, 2017**

P.C.:

1 This is an application under Section 438 of the Cr.PC. for pre-arrest bail in C.R. No. 209 of 2017 dated 18.07.2017 registered with Dahiwadi Police Station, District Satara under Sections 147, 148, 149, 326, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

2 Heard learned Counsel for the Applicants, learned APP and also perused the entire record of investigation.

3 The First Information Report is lodged by Shri. Sandeep Bhosale. It is stated that due to earlier enmity, the Applicants herein along with co-accused namely Nitin Bhosale, Vinod Bhagat and Pratik Jadhav assaulted first informant and his brother Vikram with sticks and swords, due to which the said two

witnesses suffered various injuries.

4 The injury certificates annexed with the record prima facie indicates that the injuries suffered by the witnesses namely Sandeep Bhosale and Vikram Bhosale, in all probability were caused by the aid of sticks. The investigating agency has already seized the sticks used in the present crime. During the custodial interrogation of the co-accused namely Nitin Bhosale, Vinod Bhagat and Pratik Jadhav, it is revealed that the accused persons used only sticks in the crime. The investigation carried out till date, reveals that swords were not used in the said crime. Prima facie it appears that the version narrated by the first informant Sandeep Bhosale is an exaggerated version.

5 The record further clearly indicates that, the Applicant No.2 Pratik Jadhav on the date of incident i.e. on 18.07.2017 at about 8.30 a.m. was in fact attendind a coaching class namely Bhagirath IAS Academy situated at Tilak Road, Pune. The statement dated 01.08.2017 of Shri. Hanmant Musale, an employee of the said coaching class is recorded by the investigating agency, categorically mentions about the said fact. It is prima facie thus, clear that on the date and time of incident, the Applicant No.2 was not present at the scene of offence i.e. at Bijawadi, Taluka Man, District Satara and it further prima facie appears that the statement given by the first informant Sandeep Bhosale is totally incorrect statement leading for the inference that it is a false statement. As far as the Applicant No.1 Tukaram Bhosale is concerned, he is aged about 70 years and

apart from general allegations made in the First Information Report and also in the statement of injured witness namely Vikram, prima facie it appears that no overt act has been attributed to him. As stated earlier, the weapons used in the present crime i.e. sticks have already been recovered from the co-accused namely Nitin Bhosale, Vinod Bhagat and Pratik Jadhav and there is no necessity for the custodial interrogation of the Applicant Tukaram for recovery of the said weapons.

6 In view of the above, in my considered opinion, the Applicants have made out a case for their release on pre-arrest bail.

Hence, the following order.

i) In the event of arrest of the Applicants in C.R. No. 209 of 2017 dated 18.07.2017 registered with Dahiwadi Police Station, District Satara, the Applicants shall be released on their furnishing PR Bond of Rs.15,000/- each with one or more separate local sureties in the like amount.

ii) The Applicant No.1 Tukaram Bhosale shall attend the Investigating Officer for the purpose of investigation, as and when called for till the submission of chargesheet.

It is needless to mention here that before calling Applicant No.1 to the police station, the Investigating Officer shall issue a notice under Section 160 of the Cr.P.C. In the absence of notice under Section 160 of the Cr.P.C., the Applicant No.1 is not obliged to attend the Investigating Officer.

iii) The Applicants shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.

iv) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)