

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO.1756 OF 2017**

Basavraj @ Basappa Namdeo Kumbhar & Anr. ... Applicants

vs.

The State of Maharashtra ... Respondent

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Mr. Ritesh Thobde a/w Mr. Sagar Tambe for Applicants.

Ms. A. A. Takalkar, APP for State.

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CORAM : A. S. GADKARI, J.

DATE : 06.10.2017.

P.C.:

1. The Applicants are apprehending arrest in C.R. No.226/2017 dated 8.7.2017 registered with Akkalkot South Police Station, Dist. Solapur under Sections 307, 143, 147, 148, 149, 324, 323, 504, 506 of Indian Penal Code.
2. Heard learned Counsel for the Applicant and learned APP for State. Perused the papers of the investigation.
3. The FIR is lodged by Shri. Hanmant Lohar. It is stated that there is enmity between family members of the first informant on one side and the family members of the Applicant on the other side, over the courtyard space in front of their houses. That on 7.7.2017 at about 10.30 am, father of the informant Amoghsiddh Lohar and his sister and brother were in front of their house when the Applicants alongwith other family members came at the spot and started quarreling with the first informant and his family members. During the said quarrel, Applicant No.1 Basavraj went inside his house and came out with sword in his hand. It is alleged that Applicant No.1 assaulted Amoghsiddh with the said sword on the right side of the head. When the informant Hanmant tried to rescue Amoghsiddh from the clutches of Applicant No.1, Applicant No.2 assaulted first informant with a sword on the right and back side of his head. The other family members of the Applicant

also assaulted the injured Amoghsiddh and first informant Hanmant with wooden sticks. After taking treatment at hospital, the first informant has lodged the present crime on 08.07.2017 at about 02.28 am.

4. The learned Counsel for the Applicants submitted that as a matter of fact, there was a free fight between the said two groups and the other, son of the Applicant No.1 namely Rajkumar has immediately lodged FIR on 07.07.2017 at about 23.40 pm with the police under Section 307 and other related sections of the IPC. He further submitted that as a counter blast to the said lodgment of FIR, the present crime is registered by informant Hanmant. He further submitted that in the said free fight it is possible that the injured persons might have received some injuries and it was difficult for the first informant to mention specific roles as have been attributed to the Applicants therein. He further submitted that the Applicants are ready and willing to co-operate with the investigating agency and therefore, the Applicants may be granted pre-arrest bail.

5. The record of investigation clearly reveals that Amoghsiddh Lohar i.e. the Father of first informant had received life threatening injuries and the medical officer attached to Shri. C.S.M. General Hospital, Solapur has issued medical certificate mentioning injuries as:-

(I) Bone Window: depressed comminuted fracture of right frontal bone, anterior and posterior walls of frontal sinus seen extending into the roof and medial wall of right orbit.

Brain Window: pneumocephalus in bilateral high fronto parietal and right temporal regions.

(II) Extra – axial haemorrhage in the form of acute SDH is noted in right parafalkine anterior frontal region; it is SAH is noted along posterior falx.

(III) Soft tissue : The right eyeball appears collapsed with intra-ocular

haemorrhage within. The lens is not seen separately from the haemorrhage. Pre-Septal edema is noted over right orbit.

Thus it is clear that Amoghsiddh suffered grievous hurt and his right eye ball is collapsed with intra-ocular haemorrhage within. Amoghsiddh has lost vision of his right eye in the said assault by the Applicant No.1. As far as assault on first informant by Applicant No.2 is concerned, the first informant received two Contused Lacerated Wounds on his right parietal and occipital area. As far as the contention of leaned Counsel for the Applicant that the present crime is registered as a counter blast to the crime registered by the son of the Applicant No.1 bearing No.224/2017 dated 07.07.2017 is concerned, the said submission is recorded only for its rejection at its threshold, as it is nothing but natural for the injured person and his family members to first take treatment from the doctors instead of first rushing to the police station for lodgment of crime. According to me, first of all there is no delay at all in registration of the present crime and assuming for the sake of argument that it is there, the same has been explained properly by the first informant while lodging the present crime.

6. After taking into consideration the aforestated facts, it is necessary for the Investigating Agency to recover the weapons used in the present crime by the Applicants and the same is not possible without there being custodial interrogation of the Applicants, inter alia the custodial interrogation of the Applicant is imperative for unearthing the entire truth behind the crime.

7. After taking into consideration the serious allegations and gravity of the offence this Court is of the view that the Applicants do not deserve to be protected by pre-arrest bail. Application is accordingly rejected.

(A. S. GADKARI, J.)