

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1926 OF 2017

1) SHYAMSINGH ATMASINGH LABANA)
2) TEJPAL SINGH @ KUNAL DILIP SINGH)
LABANA)
3) DILIP SINGH AATMA SINGH LABANA)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.C.K.Pendse i/b. Mr.Baburav D. Shinde, Advocate for Applicants.

Ms.Veera Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 8th NOVEMBER 2017

P.C. :

1 Applicants who are accused in Crime No.I-157 of 2017 registered with Hill Line Police Station, Ulhasnagar, for offences punishable under Sections 307, 324, 147, 148, 149, 427 of the Indian Penal Code (IPC), by this application, are seeking pre-arrest bail.

2 Heard the learned advocate appearing for applicants / accused. He drew my attention to statement of Madhav Bisht, an independent witness, recorded by the Investigator in this crime and submitted that this independent witness has categorically stated that present applicants / accused and other members of accused party in this crime were, infact, attempted to be killed by the prosecuting party. The learned advocate further argued that prosecution is not sure about the role allegedly played by each of the applicants, in the crime in question. Three of the co-accused are granted anticipatory bail by this court and one arrested accused is already released on bail, by this court.

3 The learned APP opposed the application by contending that the role of applicants / accused is narrated by witnesses examined by the Investigator and when several transactions in the incident took place with quick succession, the witnesses were taken by surprise, and therefore, there can be some variation in the version.

4 I have carefully considered the rival submissions and also perused the papers of investigation. Undisputedly, three of accused persons namely, Ranjeetsingh Budharsingh Labana, Gurmeetsingh Dilipsingh Labana and Santoksingh Rajusingh Khemari, are granted pre-arrest bail vide order dated 12th September 2017 passed in Anticipatory Bail Application No.1561 of 2017 by this court (Coram : Revati Mohite Dere, J.). The role attributed to present applicants / accused is somewhat similar to applicants in that application. Statement of Madhav Bisht, infact, shows that the First Informant came on the spot in a Scorpio vehicle and started abusing members of the accused party in this case. He gave dash of the Scorpio vehicle deliberately to the members of the accused party in this case. The learned advocate for applicants / accused submitted that one of the members of the accused party is rendered paralytic in the incident in question. Papers of investigation show that witnesses are not consistent in the role allegedly played by applicants / accused. In the First Information Report (FIR), it is averred that applicant Tejpalsingh had given a blow with butt of the revolver on the First Informant,

whereas, applicant Dilipsingh had assaulted Vikramsingh by sword. Witness Karanghosh has stated that Tejpalsingh and Dilipsingh were armed with sticks along with other accused persons. This witness has not attributed sword to Dilipsingh. Another witness Amritsingh is stating that Tejpalsingh was having knife. Witness Amitsingh is stating that Dilipsingh and Shyamsingh were present but no role was attributed to the third applicant.

5 Considering the fact that record of investigation shows that the First Informant was the aggressor in the incident in question and he had deliberately and intentionally given dash to members of the accused party by his four wheeler vehicle and subsequently assaulted them, I am of the considered opinion that, custodial interrogation of present applicants / accused is not warranted. Other co-accused have been granted pre-arrest bail by this court vide order dated 12th September 2017, and therefore, applicants/ accused also deserve the same treatment. Therefore the order :

ORDER

- i) The application is allowed.
- ii) In the event of arrest in Crime No.I-157 of 2017 registered with Hill Line Police Station, Ulhasnagar, for offences punishable under Sections 307, 324, 147, 148, 149, 427 of the IPC, applicants / accused shall be enlarged on bail on their executing P.R.Bond in the sum of Rs.10,000/-, and on furnishing one or two sureties in like amount, by each of them.
- iii) Applicants / accused shall report to the Investigating Officer of the concerned Police Station on 11th and 12th November 2017, between 10.00 a.m. to 12.00 noon, and thereafter, as and when called for, till filing of the charge-sheet.
- iv) Applicants / accused shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- v) Applicants /accused shall inform their latest place of residence and mobile contact number immediately and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.
- vi) The application is disposed of.

(A. M. BADAR, J.)

