

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1998 OF 2017**

1. Mahadev Anandrao Gavade
2. Uttam Anandrao Gavade
3. Rajendra Anandrao Gavade
4. Avinash Rajendra Gavade . Applicants
vs
State of Maharashtra .. Respondent

Mr.A.P.Kulkarni for Applicants
Mr.Vinod Chate APP for State
Mr.A.J.Shinde P.C.Phaltan Police Station present
Coram : A.S.GADKARI, J
Date : 16th NOVEMBER 2017

P.C.

1. The Applicants are apprehending arrest in CR/FIR No.283 of 2017 dated 6.11.2017 registered with Phaltan Gramin Police Station, Satara under sections 143, 147, 148,149,323, 324,326,504 of Indian Penal Code.

2. The First Information Report is lodged by Tukaram Gavade, stating that, on 5.11.2017 there was an altercation between his family members and the family members of the Applicants over driving of the tractor in the agricultural field by the family members of the first informant-Tukaram Gavade and therefore at about 3 p.m.

Applicants started assaulting him and his family members and in the said assault, the first Informant-Tukaram Gavade and his brother Amol Gavade sustained injuries. It is stated that the Applicants-Mahadeo Gavade and Rajendra Gavade with fists, the Applicant-Uttam Gavade with stick and the Applicant-Avinash Gavade with an iron rod assaulted the informant-Tukaram Gavade and his brother Amol Gavade and the said persons received injuries. In the premise, the First Information Report is lodged.

3. The learned counsel appearing for the Applicants submitted that the Applicants on one hand, and the family members of Tukaram Gavade on the other hand, are having disputes over the landed property and therefore, to implicate the Applicants herein in a false case, the present crime is registered. He further submitted that as per his instructions, the injured witnesses were immediately discharged from hospital and therefore the subsequent application of section 326 of the Indian Penal Code to the present crime is unwarranted. He therefore, submitted that the Applicants may be granted pre-arrest bail.

4. Perused the record of investigation.

The first Informant in his report has categorically stated that the Applicant-Mahadeo Gavade and Applicant-Rajendra Gavade assaulted him with fists, Applicant-Uttam Gavade assaulted with stick and the Applicant-Avinash Gavade assaulted him with an iron rod. It is categorically stated that brother of the Informant-Amol Gavade tried to rescue Tukaram Gavade from the clutches of the Applicants, when Applicant-Avinash Gavade assaulted him on his head with an iron rod. The Medical Certificate issued by Tulsi Accident and General Hospital, Phaltan corroborates the version of the first Informant to the extent of assault by Applicant-Avinash Gavade with an iron rod.

5. In view of the above, the learned counsel for the Applicants on instructions, seeks leave to withdraw the present Application qua Applicant-Avinash Gavade with liberty to surrender before the Investigating Officer on or before 11.00 a.m. of 18.11.2017.

6. As far as other Applicants-Mahadeo Gavade Uttam

Gavade and Rajendra Gavade, it is alleged that they assaulted informant and his brother with fists and stick. *Prima facie*, it appears that the medical certificates issued in favour of the injured witnesses Tukaram Gavade and Amol Gavade does not support the said contention and therefore, they can be protected by granting them pre-arrest bail.

Hence, the following order:

(i) Application of Applicant no.4-Avinash Gavade is dismissed as withdrawn with aforesaid liberty.

(ii) Application of Applicants-Mahadeo Gavade,Uttam Gavade and Rajendra Gavade is allowed in the following terms:

(a) In the event of their arrest in CR/FIR No.283 of 2017, registered with Phaltan Gramin Police Station, Satara, the Applicants namely Mahadeo Gavade,Uttam Gavade and Rajendra Gavade shall be released on bail on their furnishing PR bond in the sum of Rs.15,000/- each with one or two separate local sureties in the like amount,

(b) The applicants shall attend the Investigating Officer as and when called for between 10.00 a.m.to

12.00 noon till the submission of the charge sheet,

(c) Applicants shall not tamper with evidence and/or influence prosecution witnesses.

Application is partly allowed in the aforesaid terms.

(A.S.GADKARI, J)