

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

ANTICIPATORY BAIL APPLICATION NO.1999 OF 2017

Balu Hariibhau Balkawade & Anr.

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Nitin Pail, I/by Hulyalkar & Associates for the Applicants.

Mr. N.B. Patil, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 30th NOVEMBER 2017

P.C.:

. The applicants are apprehending arrest in CR No.346 of 2017 registered with Paud Police Station, Pune under Sections 324, 323, 504, 506 r/w. 34 of the Indian Penal Code.

2. Heard the learned Counsel for the applicants and the learned APP. Perused the record of investigation.

3. The first information report is lodged by Subhash H. Balkawade

on 22.10.2017 stating that, there is a dispute over the agricultural field between him and his brother on one side and Balu Balkawade (applicant No.1) and Rohit Balkawade (applicant No.2) on the other side. That first informant alongwith his brother Mr. Chaban were working in his agricultural field bearing Gat No.124. That, on 22.10.2017, when the first informant was carrying out the activities of sowing Jawar, due to dash of the tractor one of the pillar of fence of applicant No.1 got damaged, and therefore, applicant No.1 asked brother of first informant Mr. Chaban as to why he damaged the said pillar and the applicant No.1 thereafter threatened the said Chaban with dire consequences. At about 5.00 p.m. applicants came from their swift car to the agricultural field and at that time they started beating brother of informant namely Mr. Chaban. The first informant therefore tried to intervene in the matter. However, applicant No.1 Balu gave blow of stone on his head and applicant No.2 Rohit assaulted him by means of handle of an Axe as well as by a fighter. The first informant, therefore, fell down. Applicant No.2 thereafter assaulted Mr. Chaban by means of the handle of an Axe and therefore Mr.Chaban was seriously injured. In the premise, the first information report is lodged.

4. Learned counsel for the applicants submitted that the wife of applicant No.1 had earlier lodged FIR No.61/2014 dated 11.04.2014 against the injured person Mr. Chaban and his brother namely the first informant herein and to pressurise the applicants for settling the said matter, the present false FIR is registered against them. He submitted that applicant No.2 is a student and therefore, he may be granted pre-arrest bail.

5. Perused the record of investigation.

6. The medical certificates issued by Deenanath Mangeshkar Hospital & Research Center in favour of Mr. Chaban indicates that he is suffering the following injuries.

- (i) *Left clavicular Fracture.*
- (ii) *CLW over Right shin of tibia – sutured, with tenderness over right shin.*
- (iii) *CLW behind left ear – sutured.*
- (iv) *Deformity over nasal bridge.*

Likewise the medical certificate issued in favour of Rani Subhash Balakawade by the Medical Officer attached to Rural Hospital, Paud, Pune has mentioned the following injuries received by him.

- Abrasion on left knee Joint.*
- Type of object - Hard and Blunt.*
- Type of Injury – Simple.*
- I/d. Mark (1) Black mode below lower lip left side.*

Thus, the medical evidence available on record duly corroborates the version of the first informant as far as the assault of the applicants on the said injured persons. The weapons used by the applicants in the present crime i.e. axe and a fighter are yet to be recovered. The blood stains clothes, if any, are also to be recovered at the instance of the applicants and the same is not possible without there being thorough interrogation by the police.

7. In view of the above and after taking into consideration the serious allegations against the applicants and the gravity of the offence, this Court is of the view that the applicants do not deserve to be protected by pre-arrest bail.

8. Application is accordingly rejected.

(A.S.GADKARI, J.)