

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2151 OF 2016

1.Majeed Ibrahim Shaikh
2. Shafique Ibrahim Shaikh
3. Pathan Firoz Shahnoor

...Applicants

Versus

State of Maharashtra

...Respondent

.....

Mr.Balkrishna D. Joshi for the Applicants.
Mr.Prashant Jadhav, APP for the State/Respondent.
Mr. G.R. Patil, API, Manmad City Police Station, Nasik (present)

.....

CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 18th January 2017

P.C.:

1. This application for pre-arrest bail is moved by the applicants-accused under section 438 of Cr.P.C. The applicants-accused are prosecuted for the offences punishable under sections 307, 323, 143, 147, 148, 149 of the Indian Penal Code r/w section 37 (1) (3) r/w 135 of the Arms Act.

2. It is the case of the complainant Yogesh Dilip Patil that on 22nd December 2016, there was a verbal altercation between his brother Ashish Patil and co-accused Rafiq Shaikh. The police have warned both the parties. On 23rd November 2016 at around 12.15 p.m. the

applicants-accused alongwith Rafiq Shaikh arrived where the complainant and his brother and relative were present. Co-accused Rafiq Shaikh abused the complainant brother Ashish Patil, and thereafter they suddenly assaulted the complainant and his relative. It is the case of the complainant that Rafiq Shaikh gave blow below his chest on stomach with some pointed weapon and co-accused Latif Shaikh Shabbir assaulted him with rod, and also co-accused Hasan Shaikh Ibrahim and Majid Shaikh assaulted the complainant with wooden stick on his back, and the applicant-accused Firoz Pathan assaulted Ganesh Nimbalkar on his head with iron rod, and thereafter they all went away from there. The complainant thereafter gave information to the police, which is registered at C.R.No. 193 of 2016 with Manmad City Police Station, Nasik on the same date i.e. 23rd November 2016. Hence, this application.

3. The learned counsel for the applicants-accused has submitted that earlier on i.e. 22nd November 2016, co-accused Rafiq Shaikh was assaulted by the complainant and his friends, and he had lodged a complaint against the complainant and his associates on 23 November 2016, and the offence was registered against the complainant and his associates at C.R.No. 194 of 2016 with Manmad City Police Station, Nasik under sections 324, 504, 506, 420 r/w 34 of the Indian

Penal Code and section 37 (1) (3) r/w 135 of the Mumbai Police Act. He submitted that there is a political rivalry between the complainant and Rafiq Shaikh. He submitted that the applicants-accused were falsely implicated in the offence, as election of municipal council were to be held on 27th November 2016, wherein the complainant and his uncle and co-accused Rafiq Shaikh were contestants in the election. He further submitted that injury sustained by the complainant is of simple nature and only Ganesh Nimbalkar has suffered one grievous injury.

4. The learned prosecutor opposed the application and has submitted that he relied on the complaint and the statements of other witnesses. He submitted that there were two incidents of fighting i.e. on 22nd November 2016 and subsequently on 23rd November 2016. He relied on injury certificate of Ganesh Nimbalkar, wherein it is stated that he has grievous injury on his head.

5. Perused the F.I.R and injury certificates of the complainant and Ganesh Nimbalkar. The injury sustained by the complainant is of simple nature, but Ganesh Nimbalkar has threatened one grievous injury alongwith one simple injury.

6. On query, the learned counsel has submitted that the applicants-accused do not have any criminal antecedents, except this case. On query, the learned counsel informs the Court that the injured

person Ganesh Nimbalkar was discharged from the hospital after 8 days of the incident.

7. In view of the facts, I confirm the order of ad-interim bail, which was earlier granted by the order dated 20th December 2016 with the same terms and conditions as mentioned below:-

ORDER

- (i) In the event of arrest, the applicants-accused shall be released on bail upon furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one or two solvent sureties in the like amount.
- (ii) The applicants-accused shall report to the concerned police station on every Saturday between 6.00 p.m. to 8.00 p.m and co-operate with the Investigating Officer.
- (iii) The applicants-accused shall not tamper with the evidence or pressurize the witnesses.
- (iv) The applicants-accused shall not indulge into any criminal activity.
- (v) The applicants –accused shall not abscond or leave India without prior permission of the Court and furnish their permanent addresses to the Investigating Officer alongwith documentary proof of their addresses.

(vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

8. Anticipatory Bail Application is disposed accordingly.

(MRIDULA BHATKAR, J.)