

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO. 901/2017

(NARAYAN PUNDLIK BHARATPURE & KISHOR NARAYAN BHARATPURE **VERSUS** THE STATE OF
 MAHARASHTRA, THR. PSO PS MURTIZAPUR (GRAMIN), DIST. AKOLA)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Mr. P.R. Agrawal, counsel for the applicant.
 Mr. Shyam Bissa, A.P.P. for the respondent.

CORAM : REVATI MOHITE DERE, J.

DATE : DECEMBER 18, 2017.

Heard learned counsel for the parties.

By this application, the applicants seek pre-arrest bail in connection with CR No.243/2017 registered with Murtizapur Police Station, District Akola, for the alleged offences punishable under Sections 307, 504 read with Section 34 of I.P.C.

At the outset, learned counsel for the applicants does not press this application *qua* applicant no.2 and states that the applicant no.2 will surrender before the Sessions Court at Akola on or before 25.12.2017 after giving notice of the date and time of surrender to the concerned Investigating Officer. Statement accepted. Learned counsel however, presses this application *qua* applicant no.1.

Learned counsel for the applicant no.1 states that the applicant no.1 is the father of Kishor and Amol. He submits that the applicant no.1 has been falsely implicated in the said case, by the complainant-Yogesh and injured-Nitin. He submits that though the applicant no.1 was not present at the spot at the time when the alleged incident took place on

29.10.2017, he has been falsely roped in, in the said case. He further submits that even otherwise, the only allegation *qua* applicant no.1 is that he assaulted injured-Nitin with a stick.

Learned A.P.P. opposed the application. He submits that the applicant no.1 was also present at the spot and that he too assaulted the injured with a stick.

Perused the papers. The incident in question is alleged to have taken place on 29.10.2017 at around 3.00 p.m. With respect to the said incident, there is a cross complaint (CR No.241/2017) lodged by the applicant no.1's son Amol, as against the complainant in the present C.R. and injured-Nitin. The F.I.R./complaint registered at the behest of the applicant no.1's son, was lodged on the same day, i.e. 29.10.2017, for the alleged offences punishable under Sections 324, 504, 506 of I.P.C. It appears that in the said incident, i.e. CR No.241/2017, both, applicant no.1's son-Amol as well as Amol's cousin-Kishor Bharatpure have also sustained incised injuries. The present CR, i.e. CR No.243/2017 was registered on the next date, i.e. on 30.10.2017. Admittedly, the complainant-Yogesh is not an eye witness to the incident of assault but is alleged to have seen the applicant along with Amol and Kishor coming towards Nitin. Similarly, one Sunil Gavai, who is alleged to have reached the spot soon after the incident is also not an eye witness to the incident of assault on injured-Nitin. According to Sunil, applicant no.1 was allegedly armed with a stick and Amol and Kishor were armed with an axe. Injured-Nitin's statement was recorded on 13.11.2017, i.e. after almost 13 days of the incident. According to Nitin, Amol and Kishor assaulted him with an axe, whereas the applicant no.1

assaulted him with a stick. A perusal of the injury certificate shows that Nitin had sustained 6 CLWs and the weapon alleged is a sharp edged weapon. It is not necessary at this stage to go into the question, as to whether the applicant no.1 was present on the spot or not, however, considering the role assigned to the applicant no.1, i.e. assault by stick, Nitin's injury certificate and having regard to the applicant no.1's age, the applicant no.1 deserves to be released on anticipatory bail. Accordingly, the following order is passed.

ORDER

I) In the event of arrest of applicant no.1-Narayan s/o Pundlik Bharatpure in CR No.243/2017 registered with the Murtizapur (Gramin) Police Station, for the alleged offences punishable under Sections 307, 504 read with Section 34 of I.P.C., he be released on furnishing P.R. bond in the sum of Rs.10,000/- with 1 or 2 sureties in the like amount.

II) The applicant no.1 shall report to the Investigating Officer on 21.12.2017 and 22.12.2017 from 10.00 a.m. to 12 Noon and thereafter on every Saturday from 10.00 a.m. to 12.00 Noon, till the filing of the charge-sheet.

III) The applicant no.1 shall not tamper with the evidence and shall not influence the witnesses.

IV) As far as the applicant no.2 is concerned, his prayer for anticipatory bail is rejected as not pressed. If an application for regular bail is filed by the applicant no.2, the learned Judge shall consider the same, on its own merits in accordance with law.

The application is accordingly partly allowed and disposed of.

All parties to act on the authenticated copy of this order.

JUDGE

APTE