

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

ANTICIPATORY BAIL APPLICATION NO. 1456 OF 2018

1. Suraj Nagesh Gaikwad
2. Shahanur Shoukatali Mulla ..Applicants

v/s.

The State of Maharashtra . ..Respondents

Mr. Sagar Tambe I/b. Mr. Ritesh Tohbde for the Applicant.
Mr. S.H.Yadav, APP for the State.
Mr. Avinash Wadekar, PSI, attached to Akkalkot North P. Stn.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 06, 2018.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No.232 of 2018 registered with Akkalkot North Police Station for offences under Section 143, 147, 148, 294, 323, 327, 427, 452 r/w. 149 of Indian Penal Code and Section 4 and 25 of Arms Act.

2. Heard Mr. Tambe, the learned Counsel for the applicant and Shri Yadav, the learned APP for the State. I have perused the records

and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by one Mohamadsha Hasanlisha Makandar. It is the case of the first informant that on 1st June, 2018, while he was proceeding to Mujawar Hospital, the applicant and others chased and followed him. He entered office of one Dharmaraj Gunjale. He has stated that the applicant and others also entered the said office and assaulted him. He has stated that the co-accused Atik Bagwan and Akshay Mane had assaulted him with swords, whereas the present applicant no.1 Suraj assaulted with stick and applicant no.2 Shahanur assaulted him with fist and blows.

4. The medical certificate prima facie reveals that the injuries sustained by the first informant and the witnesses were simple in nature. The material on record does not prima facie indicate that the applicants had inflicted any injury on the vital part of the body . There is no prima facie amerial to show that the applicants were

armed with any dangerous weapons. It is true that Section 149 of the IPC recognizes principles of vicarious liability. However, the question whether the applicants shared the 'common object' and whether they had acted in furtherance of common object is a matter which will have to be decided on merits of the matter.

5. The applicants were granted bail by order dated 24th July, 2018. It is stated that they have reported to the Investigating Officer and that they have already been interrogated. The presence of the applicants therefore is not required for custodial interrogation. The applicants are permanent residents of Solapur. There are no chances of their absconding or thwarting the course of justice. They have no criminal antecedents.

6. Considering the above facts and circumstances, the application is allowed on following terms and conditions:-

(i) In the event of arrest of the applicants above named in Crime No. C.R.No.232 of 2018 registered with Akkalkot North Police Station, the applicants be released on bail on furnishing bail bond of

Rs.25,000/- (Rupees Twentyfive Thousand Only) each with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(ii) The applicants shall provide their permanent as well as temporary address, if any, and their contact details to the Investigating Officer.

(iii) The applicants shall not change their residential address without prior intimation to the Investigation Officer.

(iv) The applicants shall not tamper with the evidence or interfere with the complainant and the other witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)