

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 10 OF 2018

1. Subhash Shriram Bhoir .Applicants
2. Sanjay Shriram Bhoir

Vs.

The State of Maharashtra .Respondent

Mr. Sagar V. Kasar a/w Ms R. Harpale & Mr. A. Wagh i/b. VMK
LEGAL, Advocate, for the Applicants

Mr. S. S. Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C. R. No. I-240 of 2017 registered with the Vishnunagar Police Station, District – Thane, for the alleged offences punishable under Sections 307, 326, 452, 323, 143, 144, 145, 149, 504 of the Indian Penal Code and under Sections 37(1) r/w 135 of the Maharashtra Police Act.

3. Learned counsel for the Applicants submits that the

Applicants were not present at the spot when the alleged incident of assault took place, on 07.12.2017 at 1.00 p. m. and that the Applicants have been falsely implicated in the said case. He submitted that the Applicant No. 1 was at his residence about 10 Kms away from the spot and was watching cricket match and that the Applicant No. 2 was in the market at the relevant time. Learned counsel for the Applicants submits that he had tendered relevant bills to show his presence in the market at the relevant time. He submits that in one of the shops, the CCTV footage will also show that the Applicant No. 2 was present in the shop. He further submits that co-accused – Kiran Sadashiv Bhoir has been granted Anticipatory Bail by this Court (Coram : A. S. Gadkari, J.) vide Order dated 12.02.2018. He further submits that even otherwise, taking the prosecution case as it stands, no offence as alleged is made out as against the Applicants, inasmuch as, no role has been assigned to either of the Applicants.

4. Learned APP submits that the CCTV footage of the Applicant No. 2 was verified and it was found that he was at about 3.00 p. m. in a shop, in the market. He submits that although during investigation, one of the Applicant No. 1's relative disclosed that the Applicant No. 1 was watching cricket match, however, the said witness

is the relative of the Applicant No. 1.

5. Perused the papers. According to the Complainant – Nana Gangaram Patil, the incident is an outcome of enmity between him and his family members on one hand and one Dnyaneshwar Bhoir and his family members on the other. It is alleged that the incident took place on 07.12.2017 at about 1.00 p. m. and that all the accused assaulted the first informant with chopper, iron rod and stumps. It is further alleged that when the Complainant's nephew – Kalpesh Patil attempted to rescue the Complainant, the accused persons also assaulted him with weapons. According to the Applicants, they were not present at the spot at the time of the alleged incident and were at a distance of about 10 Kms away from the spot. Learned counsel for the Applicants submitted that the Applicants have been falsely implicated in the said case. It is also pertinent to note that even if the prosecution case is taken as it is, no specific role has been assigned either of the Applicants. Whether or not the Applicants were present at the spot i. e. plea of alibi will be considered by the trial Court at the time of the trial.

6. Considering the aforesaid, the Application is allowed and the Applicants are granted pre-arrest bail on the following terms &

conditions :-

ORDER

(i) In the event of arrest, the Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/- each** with one or two sureties in the like amount;

(ii) The Applicants shall report to the investigating officer of the concerned police station on the **27th & 28th March, 2018** between **10:00 a. m. and 12:00 noon** and thereafter, as & when called for by the investigating officer;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

(REVATI MOHITE DERE, J.)