

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.85 OF 2018

Bapu Uttam Kokare & Ors.] ... Appellants

Versus

The State of Maharashtra & Anr.] ... Respondents

Mr. Rahul K. Dhaigude for Appellants.
Mrs. M. H. Mhatre, APP for State - Respondent No.1.
Mr. S. B. Kalel for Respondent No.2 - Intervener.

CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE :- 30 JULY, 2018

P. C. :-

1. This is an Appeal challenging the order passed by the learned Adhoc District Judge-1 and Additional Sessions Judge, Baramati, Pune, dated 17/01/2018 thereby rejecting the application of the present Appellants for grant of anticipatory bail.

2. This Court has already granted interim protection in favour of the Appellants.

3. The Appeal is vehemently opposed by Mrs. M. H. Mhatre, learned APP for State - Respondent No.1 and Mr. S. B. Kalel, learned Counsel for Respondent No.2 - Intervener.

4. In view of the law laid down in by the Apex Court in the case of *Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others*¹, a detailed elaboration of the evidence will have to be avoided at this stage.

5. However, it is to be noted that in the present case, two FIRs are already lodged by the Appellant No.1 and the daughter of the Appellant No.3 against the son of the Appellant No.2 as well as other persons. The first FIR lodged by the daughter of the Appellant No.3 is on 18/12/2017 at 20.38 hours whereas the other FIR filed by the Appellant No.1 is on the same day at 03.39 hours.

6. The FIR lodged by the non-Appellant no.2 against the Appellants is with regard to the incident which is alleged to have taken place on the night of 18/12/2017 at around 9.00 p.m. The FIR

¹ (1980) 2 SCC 559

is lodged on 19/12/2017 at 21.47 hours. *Prima-facie*, it appears that the FIR lodged by the non-Appellant No.2 is by way of counter-blast to the FIR lodged by the Appellant No.1 and the daughter of the Appellant No.3. It is further to be noted that the charge-sheet is already filed and as such, the investigation is completed.

7. In that view of the matter, the Appeal deserves to be allowed. Hence, the following order :

ORDER

- (i) The Appeal is allowed.
- (ii) The impugned order is quashed and set aside.
- (iii) The Appeal is allowed on the same terms and conditions as were imposed by this Court while granting interim protection.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)