

Sarnobat

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 373 OF 2018

Dhayrasheel Raju Bhadale.

.. Applicant.

Vs.

The State of Maharashtra.

.. Respondent.

Mr. Aniket Nikam a/w Mr. Ashish Satpute a/w Mr. Piyush Toshnival for the Applicant.

Mr. S. H. Yadav, APP for the Respondent.

CORAM : P. N. DESHMUKH, J.

DATE : 27TH FEBRUARY, 2018.

P. C. :

1. Heard learned counsel for the applicant, learned Additional Public Prosecutor and also perused the charge-sheet.

2. This is an application for grant of anticipatory bail in Crime No. 885/2017 registered with Hadapsar Police Station, Pune on 10th September, 2017 under Section 307, 143, 147, 148, 149, 504 and 506 of Indian Penal Code.

3. Learned counsel for applicant by referring to the contents of report and the documents filed with the charge-sheet including the statement of complainant recorded under section 164 of Cr. P.C. has made an attempt to demonstrate how these statements are contradictory to each other on the point of assault by the applicant on

complainant. It is also attempted to demonstrate that, even the part of body as stated in the report and in the statement under Section 164 is different and in fact the statement recorded under section 164, complainant had not attributed any role to the applicant except stating that the applicant along with co-accused Sourabh Shevale and two others had removed sickle from the vehicle and two other persons amongst them committed assault on the head of complainant by sickle. It is further submitted that though, according to the report complainant Shrikant Tupe stated that he had sustained injury on his left hand, no injury is found in the medical report. It is therefore contended that a case is made out for grant of anticipatory bail.

4. Learned Additional Public Prosecutor on the other hand has submitted that the contents of report and statements of witnesses on record prima facie establish the involvement of applicant/accused and it is prayed that application be rejected.

5. Admittedly investigation is complete and charge-sheet is filed before the competent Court and applicant is shown as absconding accused. Perusal of FIR though reveals that the incident which has occurred on 9th September, 2017 is between the college going students. The role attributed to them including of applicant, needs to be considered in view of the fact that co-accused were found having armed with dangerous weapons like sickle carrying in their vehicles. In

view of conduct of co-accused including that of applicant thus, no much weight can be given to show leniency to him on the count to be student. In fact from the report it is also noted that complainant also is a student studying in Garware College in Pune. There is nothing to establish as to what for these college going students require to carry dangerous weapons like sickles in their vehicles. Apart from above observations, from further contents of report it reveals that the incident took place on 9th September, 2017 amongst these college going students, role attributed to applicant is about his assaulting complainant by a sickle which complainant tried to save and thus the sickle hit his left hand from its blunt side. In view of above, naturally there would be no injury found on left hand of complainant and as such this fact by itself cannot be said to be sufficient to establish innocence of applicant in the present assault. On the contrary, from further contents of report it is found that after applicant assaulted by sickle on hand, co-accused Pranav and two others opened assault on one Omkar, who however managed to run away and was chased by applicant and two others. In view of contents of report as aforesaid and since it is also noted that name of applicant is mentioned by complainant in the statement recorded under Section 164 of Cr. P.C. wherein though no role is attributed to the applicant, it is a definite case of complainant that applicant carried sickles and sticks along with co-

accused Sourabh Shevale and two others from one vehicle.

6. In addition to above, statements of Akshay Bodhale, Praful Wankhede, Omkar Allhat and Digvijay also prima facie establish involvement of applicant to have involved in the assault who is stated to have removed sickles from Verna Car and on extending threats to kill, assaulted complainant Shrikant Tupe on his head by sickle which blow fell on his left side hand. Statements of all above named are consistent with reference to role attributed to the applicant. The final report submitted before the competent Court has shown applicant as absconding accused. Having considered the facts as aforesaid, application stands rejected.

[P. N. DESHMUKH , J.]