

Sarnobat

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

ANTICIPATORY BAIL APPLICATION NO. 475 OF 2018

Sudam Mahadeo Atole & Anr.

.. Applicants.

Vs.

The State of Maharashtra.

.. Respondent.

Mr. Kuldeep Patil i/by Mr. Prashant S. Hagare, for the Applicants.

Mr. S. R. Agarkar, APP for the Respondent.

Mr. D. B. Bhosale, PSI Baramati Taluka Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 10th APRIL, 2018.

P. C. :

1. Heard the learned counsel for applicants and learned APP. This application is for grant of anticipatory bail to both the applicants who are father and son in Crime No.556/2017 registered with Baramati Taluka Police Station for the offence punishable under Sections 307, 324, 504, 506 r/w 34 of Indian Penal Code registered on the basis of report of Vijay Mahadeo Khomane, son of injured Mahadeo Khomane. Learned counsel for applicants submitted that no custodial interrogation of either of the applicants is necessary, as weapon involved in this offence being Axe, iron rod and wooden rod are seized during the course of investigation from the possession of one Vitthal Gavde. Learned APP on instructions from investigating officer makes a

statement that the weapons as aforesaid, are produced by Vitthal Gavde in the police station and are accordingly seized on 11th November, 2017 and has further contended that no other articles are required to be seized and thus, submitted that application be allowed by imposing suitable conditions upon applicants to facilitate further investigation.

2. Learned APP opposed the application contending that there is direct evidence establishing involvement of both the applicants in the present crime as assailants of Mahadeo Khomane. It is contended that a report is corroborated substantially by the injury reports as well as statement of eye witnesses. It is thus, prayed that application be rejected.

3. Report by Vijay Khomane reveals that on 10th November, 2017 at 6.00 pm. when he along with his father injured Mahadeo and mother, grand mother were present in the house, as somebody had come in front of their house, all of them came out and noted applicant Sudam Atole and Sanjay Sudam Atole having armed with wooden log and Axe respectively present along with co-accused Kiran Atole who was armed with iron rod, who due to old enmity committed assault on complainant's father during the course of which Sudam committed assault by a wooden log while applicant Sanjay committed assault by Axe on the leg due to which Mahadeo fell down while co-accused Kiran

committed assault by iron rod on the head of the deceased. It is stated that in the meantime, complainant's mother intervened. However, she was also assaulted by co-accused Kiran by iron rod on her head and thereafter, all the assailants left from the spot.

4. Similar are the statements of eye witnesses including injured Mahadeo Khomane . It is thus clearly established that in the assault on Mahadeo applicant Sanjay and Kiran committed assault by Axe on leg, hand, head of the injured respectively due to which he has sustained grievous injuries and from the medical certificate it noted that the head injury has resulted in to sustaining fracture on the tempo region as described in medical certificate on record page No. 70 and 71. As such no case is made out for bail before arrest in favour of Sanjay Sudam Atole-applicant No.2. However, since applicant No. 1 Sudam is only attributed with having armed with wooden log and no specific act is attributed to him except for instigating co-accused and as report as well as statements do not establish role of applicant -Sudam, as an assailant to whom any of the injuries as mentioned in the injury certificate can be attributed which are in the nature of blunt trauma and CLW, sustained by Mahadeo in addition to one abrasion as said injuries can be referred to co-accused Kiran and Sanjay who are found armed with iron rod and Axe, application is liable to be partly allowed as per order below;

ORDER

(i) In the event of arrest of applicant No.1 Sudam Mahadeo Atole in crime No. 556/2017 registered with Baramati Taluka Police Station, Taluka Baramati, he shall be released on his executing P. R. bond in the sum of Rs.25,000/- with one surety in the like amount.

(ii) Application of applicant No. 2-Sanjay Sudam Atole stands dismissed.

[P. N. DESHMUKH , J.]