

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.555 OF 2018

Jaywant Dattatarya Phulare and Anr.

..Applicants

vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep S. Patil for Applicant .

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

Mr. Baban Avhad, API Panvel Taluka Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 6th APRIL, 2018

P.C.:

. Heard Mr.Patil, learned counsel for applicant and Mr. Agarkar, learned APP. This application is filed for bail before arrest in C.R. No.I-29/2018 registered with Panvel Taluka Police Station for offence punishable under sections 326, 504 read with 34 of IPC.

2. By interim order applicants were protected from their arrest noting that relations between applicants and complainant were strained much prior to the incident and in the background thereof on 17/2/2018 when complainant went to field in the morning noted that applicants along with other co-accused were loading woods from complainant's farm into their bullock cart for which complainant objected upon which there was quarrel amongst them and in the same course of transaction co-accused Vasudev Phulare committed assault on complainant's hands by wooden log and applicants by stick on complainant's back and head.

3. Case diary reveals that complainant had sustained fracture to shaft ulna and distal ulna, contusion over back and abrasion on the

shoulder. Considering the case of complainant and the injury certificate it is noted that no injury is sustained by complainant to his head except for abrasion on forehead while the nature on injury on back is in the nature of contusion. Considering the fact that there is no injury on the head, no assault can be attributed to applicant. Even on considering the statement of eye witnesses none of them appears to have attributed any assault by applicants on head of complainant and other co-accused are stated to have assaulted by wooden log.

4. In that view of the matter there is nothing to co-relate injuries with applicants resultantly there is nothing to establish that applicants are authors of fracture injuries which are grievous and injury which can prima facie found connecting applicants are simple. In the circumstances, application is liable to be allowed. Hence order:

ORDER

- i) Interim protection granted to applicants by the order dated 21/3/2018 stands confirmed on the same terms and conditions;
- ii) Applicants shall attend Investigating Officer as and when called till filing of charge-sheet and thereafter shall mark their presence with Panvel Taluka Police Station on the first day of each month initially for a period of 6 months and thereafter quarterly on the first day of each such month pending trial.

(P.N. DESHMUKH, J)