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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 580 OF 2018

Mayur Nandu Shete	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, for the Applicant.

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

Mr. Deepak Gaikwad, Constable Vadgaon, Maval Police Station, Pune
(Rural) – Present.

CORAM : P. N. DESHMUKH, J.

DATE : MARCH 26, 2018

PC :-

1. Issue notice to Respondent. Learned APP for Respondent waives service of notice.
2. Heard learned counsel for Applicant and learned APP Respondent-State. Admittedly, charge-sheet in the present matter is filed. Learned counsel for Applicant has submitted that there is no averment to show involvement of Applicant in the FIR. His name is not mentioned therein and on similar set of facts other co-accused are

granted anticipatory bail by this Court by its order in Anticipatory Bail Application Nos. 157/2018 and 215/2018. It is also contended that case of Applicant is at par with those of other co-accused in above two applications, as Applicant's involvement is only on the basis of additional statement of injured recorded on 10th October, 2017. It is, therefore, contended that application be allowed by imposing suitable conditions.

3. Learned APP, on instructions, has not disputed facts, as aforesaid. Perusal of charge-sheet reveals that involvement of Applicant in C. R. No. 160/2017 registered by Vadgaon-Maval Police Station, Pune (Rural) is for offences under Section 307, 325, 143, 147, 148, 149, 504, 506 of Indian Penal Code.

4. Statements of injured Sudhir Pardeshi reveals that on 23rd September, 2017 at 6.00 am. while he was sitting at one of his relative's house, boys belonging to Veer Chakra group by jumping from the iron gate entered his premises. In the initial part of his statement injured had stated that relations between his group and boys belonging Veer Chakra group, were strained and has also lodged report of some incident dated 22nd September, 2017 with reference to

assault on one Swapnil Dhore, one of the members belonging to the injured's group for which offence was registered with Talegaon Police Station. It also reveals that prior to this incident, there was assault by the boys belonging to Veer Chakra group during Dahi Handi festival and on Abhijit Chikhale belonging to Sudhir Pardeshi's group. Considering the contents of statement as such, it is prima facie established that relations between injured and that of the applicant were strained much prior to the incident and out of such relations there were frequent quarrels and assaults between the boys belonging to the group of injured at the hands of members from the group of Veer Chakra Mandal.

5. In the background of above circumstances, when the statement of Sudhir Pardeshi is further considered, it reveals that after seeing the assailants armed with iron rods, sticks in their hands, he apprehended assault on him and started running from the house of his relative Hitesh Paswan. However, fell down and was assaulted by co-accused Kalpesh Bhagat, to whom co-accused Sudhri Dhore, Swapnil Dhore, Karan Karke, Akshay Lonari, Nagesh Shetaye joined and open attack simultaneously on his head, face while co-accused

Nitin, Pradip More assaulted by stone and co-accused Manav Mhalaskar and 3 to 4 other boys had assaulted by kick blows and fist blows and ran away from the spot. In the background of injured's statement as aforesaid, he sustained assault upon him by such number of persons as aforesaid repeatedly and at the same time thus, injured is expected to sustain number of injuries on his person. However, on perusal of his injury report, he is certified to have sustained five grievous injuries. Injuries sustained since are grievous, certainly cannot be neglected. However, as involvement of applicant is with number of other co-accused as aforesaid, who are stated to have committed assault on head and face of injured, it cannot be said that injury No. 1 over scalp or injuries at Sr. No. 2 and 3 on the face are caused by applicant Mayur Shete only. More particularly when, in all 23 accused are involved in this Crime out of those 11 are released on bail by Trial Court.

6. Moreover, it is found that injured in his statement dated 23rd September, 2017, which is recorded immediately after incident of assault, has not named Applicant, but it is only after his arrest in the subsequent statements of injured recorded on 10th October, 2017

applicant is belatedly named. In the circumstances, Application is liable to be allowed, as there is no sufficient evidence, requiring his custodial interrogation as charge-sheet is filed. Hence, following order:

- (i) In the event of arrest of Applicant in C. R. No. 160/2017 registered by Vadgaon-Maval Police Station, he shall be released on bail on his executing PR bond in the sum of Rs. 25,000/- with one surety in the like amount;
- (ii) Applicant shall mark his presence with Vadgaon-Maval Police Station on the 1st day of each month, initially for a period of six months and thereafter quarterly on 1st day of each such month, pending trial;
- (iii) It is made clear that learned Trial Court shall not get influenced by any of the observations made herein, and shall independently evaluate evidence at the time of trial;
- (iv) Application is accordingly allowed in the aforesaid terms.

Sd/-
[P. N. DESHMUKH, J.]