

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 686 OF 2018

1 Keshav Anil Shinde.
2 Shahaji Anil Shinde. ..Applicants.

V/s.

State of Maharashtra. ..Respondent.

Mr. K.N. Shermale, advocate for applicants.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 9, 2018.

P. C. :

1 Heard the learned Counsel for the applicants and Learned
APP for State.

2 This is an application under section 438 of the Code of
Criminal Procedure, 1973. The applicants herein are apprehending their
arrest in Crime No. 121 of 2018 registered at Shirur Police Station for
offence punishable under section 307, 504, 506 read with section 34 of
the Indian Penal Code. That the applicant No. 2 was granted interim
relief vide order dated 10th April, 2018. In the interregnum, investigation
is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 19/2/2018 Sandip

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Shinde lodged a report at the police station alleging therein that on the day of the incident Sandip Shinde and Harshal Thorat were assaulted by Keshav Shinde and his associates. The injured were taken to hospital. When they were taking treatment in the hospital, they realised that a quarrel had ensued and therefore, they had seen that persons Keshav Anil Shinde, Vishal Shinde, Shahaji Shinde, Chetan Shinde were assaulting Suhas, brother of Sandip Shinde with kicks and fists blows. That Vishal had assaulted Suhas with knife. Due to which, he had sustained injuries on his thigh. On the basis of the said statement, Crime No. 121 of 2018 is registered at Shirur Police Station. In the interregnum, charge-sheet is filed.

4 It is pertinent to note that the investigating agency has not recorded statement of the injured Suhas for the reasons best known to the investigating agency. The police has recorded statement of one Umesh Iswe and Harshal Thorat, who are purportedly eye witnesses in the said case. Both the witnesses have categorically stated that it was Vishal Shinde who had assaulted Suhas with knife. It is submitted that this is a case of cross complaint. It is also submitted that present applicant was injured in the said incident.

5 In view of the papers of investigation and the fact that the statement of Suhas Shinde is not recorded, coupled with the fact that

according to investigation, Suhas was assaulted by Vishal Shinde, the applicant No. 1 deserves to be granted pre-arrest bail. The application of applicant No. 2 also deserves to be confirmed on same terms and conditions.

6 The observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for discharge or quashing of FIR or at the time of trial.

7 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 121 of 2018 registered with Shirur Police Station, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount.
- (ii) The applicants shall report to the concerned Police Station as and when called by the Investigating Officer and cooperate with the investigating agency to the best of their capacity.
- (iii) The applicants shall not tamper with the evidence.

8 The application is disposed of accordingly.

Aruna
Sandeep
Talwalkar

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[SMT. SADHANA S. JADHAV, J.]

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