

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1438 OF 2018

Indumati K. Chaudhari and anr. ...Applicants.
Vs.
The State of Maharashtra ...Respondents.

Mr. R.B. Raghuwnshi i/by Gauri Raghuwanshi with Ratnesh Dubey
for the Applicant.
Mr. Ameet Palkar, APP for the State.
Mr. Sachin Thorat for the Intervener.

CORAM : A.S.GADKARI, J.
DATE : 31st January, 2018

P.C:

1. By a reasoned order dated 14.8.2017 the applicants were granted interim relief and directed to attend the Investigating officer on stipulated dates.
2. Heard Mr. Raghuwanshi, learned counsel for the applicant, Shri. Thorat for the first informant and the learned APP. Perused the record of investigation and charge sheet.
3. The first information report is lodged by Shri. Sachin Kene. The prosecution case in nutshell is that there were disputes between the family members of Mr Sachin Kene on one hand and Mr. Shriram Bhagat (accused) and his family members on the other

hand over parking of vehicles and the machinery used for construction business on the road or easementary way to the house of the first informant Mr. Sachin Kene. That, on 30.5.2017, at about 12.30p.m. there were altercations between Shriram Bhagat and Vikrant Bhagat over parking of JCB machine on the way/road leading to the house of the first informant and at that time Shriram Bhagat had administered threats of dire consequences to Mr. Vikrant Bhagat (deceased) i.e. brother of the first informant. At about 2.00 p.m. on the said day when the informant along with his brother Vikrant(deceased) and other family members were having their lunch, Shriram Bhagat (co-accused) came at the scene of offence along with 12 known and 6-unknown persons and gave call to Vikrant to come out of the house and when they came out of the house it is alleged that Shriram Bhagat along with 16-other accused persons encircled Vikrant. At that time co-accused Pankaj Mhatre was having single barrel gun. After the accused persons encircled Vikrant, co accused Shriram took out a revolver which was concealed to his waist and gave to co accused Mangesh and directed him to fire at Vikrant, Mangesh accordingly fired a round due to which Vikrant sustained injuries and fell down on the spot. It was

alleged that all the accused persons held Vikrant when Mangesh fired at Vikrant. It is stated that after the said firing, the accused persons fled away from the spot in different cars.

4. After perusing the entire record it clearly appears that apart from mentioning the fact that the applicants were present at the scene of offence with a further general allegation that they took part in helping the other accused persons in accosting Vikrant, no other overt act is attributed to the applicants. In the supplementary statement of the first informant which is recorded after the gap of six days it is alleged that the applicant No.2 slapped Vikrant. The applicant No.1 is aged about 65 years. After perusal of the entire material on record, prima facie, it appears that apart from their presence at the scene of offence, no other overt act is attributed to them and it further prima facie appears that, the alleged role attributed to them in the first information report and other statements is an exaggerated version of the witnesses having tendency in implicating the present applicants in the crime because they are close relatives of the other accused persons in the crime.

5. In view of the above, the applicants deserve to be protected by pre-arrest bail.

6. The interim relief granted by Order 14.8.2017 is hereby confirmed. However, the condition to attend the Investigating Officer of the concerned police station is waived.

7. Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)