

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1577 OF 2018

Bhau @ Raju Shivram Egade & Anr.

....Applicants.

Vs.

The State of Maharashtra

....Respondent.

Mr. S.R. Phanse for the Applicants.

Ms. A.A. Takalkar APP, for the Respondent-State.

Mr. M.R. Shinde, API Mumbra Police Station.

CORAM : A. S. GADKARI, J.

DATE : 13th AUGUST, 2018.

P.C.:-

The Applicants are apprehending arrest in CR No. I-372 of 2018, registered with Mumbra Police Station, District Thane, under Sections 353, 504, 506 r/w Section 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicants and the learned APP. Perused the record.

3 The first information report is lodged by Shri Yogeshwar Patil, Bit Officer attached to Diva Police Chowky, Mumbra Police Station, District Thane.

The prosecution case in brief is that, on 18th July, 2018 at about 9.30 p.m., the Applicants under the influence of alcohol were

creating scene on a road leading to Diva Naka and with a view to bring the Applicants to the Police Station, the Bit Marshal apprehended them and were being brought to Mumbra Police Station in a Police vehicle.

At about 9.45 p.m. when the Police vehicle reached Diva Naka, the Applicant Naresh Dalvi hit his mobile phone on the head of Applicant No.1 Raju Egade and created a scene that, the police assaulted Raju Egade in the said police vehicle. As the driver of the said vehicle did not stop it, the Applicant No.2 Naresh Dalvi abused the policemen in filthy language and assaulted the driver of the vehicle and thereafter got down from the vehicle and started creating the ruckus on the road alleging that the police on duty assaulted him.

When the additional police force reached at the spot, the Applicant Naresh Dalvi told Assistant Police Inspector Shri Shinde that, he is having contacts in Mantralaya and the concerned police officer will have to face serious consequences of the same.

In the meantime, people from the vicinity gathered at the spot and by taking undue advantage of the situation, the Applicants fled away from the scene of offence.

4 Mr. Phanse, the learned counsel for the Applicants

submitted that, the version narrated by the first informant is a doubtful version as the police have not produced on record till today the Medical Certificate of Applicant Raju Egade. He submitted that, when he visited the concerned hospital for getting the Medical Certificate, the concerned hospital refused to give it to him and therefore, the story as narrated by the first informant creates doubt in the mind. He further submitted that, it is not possible for the Applicants to flee away from the scene of offence in the presence of 4 to 5 police persons. He submitted that, nothing is to be recovered from the Applicants and therefore, the Applicants may be protected by pre-arrest bail.

5 At the outset, it is to be noted here that, there is a rise on the assault on public servants who are performing their lawful duty and such tendency has to be dealt with sternly.

There is no reason to disbelieve or to have doubt in the mind about the version narrated by Shri Yogeshwar Patil, Bit Marshal, attached to Diva Police Chowky, which falls under the jurisdiction of Mumbra Police Station, District Thane. The record of investigation indicates that as a matter of fact, the Applicants were under the influence of liquor and were creating scene on a public road when the

police apprehended them. Instead of cooperating with the police in maintaining the law and order situation, the Applicants initially created ruckus and subsequently indulged into assaulting the driver of the police vehicle when he did not stop it. The allegations against the Applicants are undoubtedly serious in nature and require their thorough investigation for unearthing the entire truth behind the crime.

6 In view of the above and after taking into consideration the serious allegations against the Applicants and the gravity of the offence, this Court is of the considered view that the Applicants do not deserve to be protected by pre-arrest bail.

7 Application is accordingly rejected.

S S
Mashalkar

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(A.S. GADKARI, J.)