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

ANTICIPATORY BAIL APPLICATION NO.1587 OF 2017

Vinayak Barku Mharse & Ors.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1556 OF 2017**

Sharad Mhase & Ors.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1586 OF 2017**

Manoj Dattatray Kurlle & Ors.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. A.P. Mundargi, Senior Advocate i/b Swapna Kode for applicants.
Ms. J.S. Lohakare, APP for State.
Mr. Patankar for Intervener.

**CORAM : A.S.GADKARI, J.
DATE : 5th FEBRUARY 2018.**

P.C.:

1] By a reasoned Order dated 19th September 2017, the applicants were granted interim relief.

2] Heard the learned Senior Counsel appearing for the applicants, the learned Counsel for the Intervener and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Mr. Tanaji Kurle. The prosecution case in brief is that, due to the dispute and/or enmity arising out of the election of Agricultural Produce Marketing Committee, on 10.7.2017 at about 00.45 a.m, the applicants committed criminal trespass in the house of the first informant and caused damaged to the property and assaulted him with fist and kick blows. It is further alleged that the applicants thereafter made a move to the house of Mr. Suresh Kurle, caused damage to his car and assaulted him with weapons like swords, choppers and sticks. In the premise the first information report is lodged.

It is the prosecution case that, the applicants were holding swords, choppers, iron rods, and wooden logs and with the aid of the said weapons and along with seven to eight other accused committed the present crime.

4] The record indicates that, in the statement dated 24.7.2017, injured witness Mr. Suresh Kurle has categorically stated that the applicants namely Sudarshan D. Pashte, Vinayak Mharse and Arun Kurle assaulted him

with weapons like choppers, swords and/or iron rods. The injury certificate issued in favour of Mr. Suresh Kurle indicates that he suffered incised wound on his forehead. That the CT Scan report issued by the Radiologist attached to Central Hospital, Ulhasnagar further mentions that, there is an hairline fracture on the right frontal bone with subgaleal hematoma at frontal region. Injury certificate issued in favour of Mr. Tanaji Kurle indicates that, he suffered blunt trauma on his chest and said injury is simple in nature.

5] Thus prima facie it appears that the applicants namely Sudarshan D. Pashte, Vinayak Mharse and Arun Kurle are the authors of the said injuries suffered by Mr. Suresh Kurle said two injured witness and the other applicants were the members of unlawful assembly alongwith with the said three accused persons on the date and time of incident. It further prima facie appears from the record that, the other applicants, except forming unlawful assembly, have not taken any active part in the present crime. It is to be noted here that, the injured witness has sustained one single injury in the said melee and therefore it appears that the version narrated by the first informant is little exaggerated.

6] After taking into consideration the over all view of the matter, this Court is of the considered view that the applicants namely Sudarshan D. Pashte, Vinayak Mharse and Arun Kurle do not deserve to be protected by pre-arrest bail. However, the other applicants deserve to be granted pre-arrest bail.

7] In view thereof, the applications for pre-arrest bail of Mr. Sudarshan D. Pashte, Mr. Vinayak Mharse and Mr. Arun Kurle are rejected.

Interim relief granted by an Order 19th September 2017 is confirmed with respect to other applicants namely Mr. Kalpesh Murbade, Mr. Jagdish Mhase, Mr. Vinayak Kurle, Mr. Sharad Mhase, Mr. Paresh Kurle, Mr. Naresh Kurle, Mr. Rahul Dhamane, Mr. Harshad Pashte, Mr. Aniket Kurle, Mr. Manoj Kurle, Mr. Rajesh Kurle, Mr. Shrikant Bhondiwale, Mr. Nandkumar Kurle, Mr. Sachin Kurle and Mr. Kalpesh Kurle. However, the condition to attend the Investigating Officer is hereby waived.

8] Applications are partly allowed in the aforesaid terms.

(A.S.GADKARI, J.)