

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

BAIL APPLICATION NO.2641 OF 2018

1. Harshal Dipak Tipale	
2. Kiran @ Krushnaraj Dipak Tipale	...Applicants
Versus	
The State of Maharashtra	...Respondent

**WITH
BAIL APPLICATION NO.2642 OF 2018**

1. Dipak Dhanraj Tipale	
2. Rajendra Dhanraj Tipale	...Applicants
Versus	
The State of Maharashtra	...Respondent

.....

Mr. Sanjay P. Shinde for the Applicants.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 8th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicants, who have been arrested in Crime No.172 of 2018 registered with Yeola Police Station, District-Nashik, for offences punishable under Sections 143, 147, 148, 323, 324, 326, 504 and 506 r/w. 149 of the Indian Penal Code, 1860.

2. Heard Mr. Sanjay P. Shinde, the learned counsel for the

Applicants and Mr. Ajay Patil, APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Mangala Tipale. A perusal of the FIR reveals that on 14.9.2018 at about 6.00 p.m. the motorcycle driven by the Applicant No.1 had almost brushed against the motorcycle of Sagar, son of the first informant. It is alleged that upon being questioned about the said incident, the Applicant called his family members to the place of the incident. It is stated that the Applicant and others came to the place of the incident armed with iron rods and sticks and that they assaulted Sagar. The allegations against the Applicants- Harshal and Kiran Dipak Tipale (Applicants in Bail Application No.2641 of 2018) are that they were armed with sticks and that they inflicted blows of sticks on the hands, legs and head of Kiran, the son of the first informant. The FIR further states that Deepak and Rajendra (Applicants in Bail Application No.2642 of 2018) had assaulted the first informant and her sons by slaps, kicks and blows. The medical evidence prima facie reveals that said Kiran had sustained fracture on left radius.

4. Though the material on record prima facie shows the involvement of the Applicants in assaulting Kiran, there is no prima facie material to show that they were armed with any dangerous weapons. It is true that Sections 34 and 149 of the IPC recognise the principles of vicarious liability. However, the question whether the Applicants shared the 'common object' and whether they had acted in furtherance of common object is a matter, which will have to be decided on the merits of the matter.

5. The Applicants are in custody since 16.9.2018 and are presently in magisterial custody. Their presence is no longer required for the purpose of interrogation and investigation. The Applicants are permanent residents of Yeola, District-Nashik, hence there is no possibility of the Applicants absconding or thwarting the course of justice. The Applicants have no criminal antecedents.

6. Considering the above facts and circumstances the application is allowed on following terms and conditions:-

- (i) The Applicants are ordered to be released on bail on furnishing bail bonds of Rs.25,000/- each with one or two solvent sureties in the like amount.

- (ii) The Applicants shall furnish their permanent as well as temporary addresses, if any, and their contact details to the Investigation Officer.
- (iii) The Applicants shall not change their residential addresses without prior intimation to the concerned Investigation Officer.
- (iv) The Applicants shall not interfere with the first informant, her family members and others in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

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