

Sarnobat

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

ANTICIPATORY BAIL APPLICATION NO.2028 OF 2017

Jaydip Laxman Khandagle & Anr. .. Applicants.
Vs.
The State of Maharashtra .. Respondent.

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1983 OF 2017**

Sandip Balasaheb Chavan. .. Applicant.
Vs.
The State of Maharashtra. .. Respondent.

Mr.Umesh Mankapure, for the Applicant in both.
Mr.S.R. Agarkar, APP for the Respondent.
Mr.Satish A. Khot, Police Sepoy, Tasgaon Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 26th MARCH, 2018.

P. C. :

1. Both these applications filed by applicants are arising out of Crime No. 434 of 2017. Both are heard and decided together by this common order.
2. Heard learned counsel for applicants and learned Additional Public Prosecutor. Applicants are already protected by interim orders of this Court dated 16th November, 2017 and 21st November, 2017, from their arrest in Crime No. 434/2017 registered with Tasgaon Police Station, District-Sangli under Sections 143, 147,

148, 149, 326, 504, 506 of Indian Penal Code, under Sections 4, 25 of Arms Act and under Section 135 of Bombay Police Act. By referring to the report, it is submitted that even if its contents are admitted as it is, neither of the applicants can be attributed as an assailants of Yuvraj @ Sunil Bhanudas Patil as according to the report, role of assault on head by sword is attributed to co-accused-Sambhaji Jaysing Mhaske, who is already released on bail by the Learned Addl. Sessions Judge observing that, no injuries are sustained by complainant Yuvraj @ Sunil Bhanudas Patil attracting application of Section 326 of Indian Penal Code. It is therefore, contended that applications be allowed.

3. Learned APP opposed the applications contending that applicants' involvement is directly established from the report and contents thereof are also fully corroborated with the injury report and is therefore, submitted that applications be rejected.

4. In the background of submissions advanced as aforesaid and perusal of report reveals that, out of seven assailants named in FIR along with applicants, co-accused-Sambhaji Mhaske and Santosh Chavan are alleged to be armed with sword out of which Sambhaji Mhaske is said to have committed assault on head of complainant by sword. Applicants Jaydip Khandagale and Sandip Chavan are attributed to be armed with sticks while applicant Raghunath Chavan is not attributed with any weapon. Role of all the applicants is shown to

have committed assault by sticks on back, shoulder and abdomen. In that view of the matter, applicants' involvement is not established in the present Crime as assailants.

5. In fact, learned Sessions Judge had observed that, in the absence of medical certificate, no offence punishable under Section 326 of I.P.C. can be registered. Said order of the Sessions Court is passed on 18th November, 2017.

6. Learned APP on instructions from Investigating Officer even today makes a statement that, no injury certificate is collected from the Civil Hospital, where injured is referred for his head injury, by the Medical Officer, Rural Hospital, Tasgaon. In view of above state of affairs and since, according to report though, no head injury is attributed by complainant to any of the applicants, applications are allowed as per order below;

ORDER

- (i) Interim orders stand confirmed on same terms and conditions.
- (ii) Applicants shall attend Investigating Officer if required till filing of the charge-sheet.
- (iii) Both the applications are allowed.

[P. N. DESHMUKH , J.]