

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

ANTICIPATORY BAIL APPLICATION NO.2210 OF 2018

Kashinath Laxman Randhavan	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Rahul S. Kate for the Applicant.
Mr. Rupesh Zade for the original complainant.
Mr. S.R. Agarkar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th OCTOBER, 2018.

P.C.:-

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.580 of 2018 registered with Daund Police Station, District -Pune, for offences punishable under Sections 143, 147, 148, 324, 326, 504 and 506 r/w. 149 of the Indian Penal Code, 1860.

2. Mr. Rahul Kate, the learned counsel for the Applicant submits that the only allegation against the Applicant is that he had assaulted the first informant with a handle of pickaxe. He further submits that there is no prima facie material to show that the Applicant herein was a member of the unlawful assembly. He submits that the

Applicant is a teacher and he is ready to co-operate with the investigation.

3. Mr. Rupesh Zade, the learned counsel for the Intervenor submitted that even after the said incident the Applicant alongwith the other co-accused have been abusing and threatening the first informant. He has placed on record copy of the NCR No.1363 of 2018 dated 3.10.2018.

4. Mr. S.R. Agarkar, the learned APP submits that the Applicant and others had assaulted the first informant, his father and uncle. One of the injured person had sustained grievous injury. He has stated that by virtue of section 149 of the IPC the Applicant is prima facie guilty of offence under Section 326 of the IPC.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The aforesaid crime was registered pursuant to the FIR lodged by one Ajit Dattu Randhwan. The FIR prima facie reveals that on 27.9.2018 the first informant had gone to his paddy field. He had

seen that the Applicant and others were fixing stones on the common boundary and when questioned, the Applicant, assaulted him by means of a handle of a pickaxe. He has stated that the co-accused had also assaulted his father and uncle.

7. The records indicate that the Applicant and other co-accused were working in the paddy field. The material on record do not prima facie indicate that they had assembled with a common object of committing any offence or that the assembly was unlawful from inception. It appears that there was a sudden quarrel between the parties over the issue of fixing stones on a common boundary. The Applicant has allegedly inflicted a blow by a handle of a pickaxe . The injury sustained by the first informant was simple in nature. The Applicant had neither used the blade or cutting edge of the pickaxe nor inflicted the blow on the vital part of the body. The question whether the Applicant had shared common object and whether he can be held vicariously liable for the acts of others is a question which will have to be decided on the merits of the matter.

8. The above facts and circumstances do not justify custodial interrogation. The Applicant is a teacher and as such there is no

possibility of the Applicant absconding and/or fleeing from justice. The Applicant has no criminal antecedents. The copy of the NCR, which is placed on record by the learned counsel for the Intervenor indicates that the alleged threats and abuses were given by one Rajendra Randhawan and not by the present Applicant. Hence, registration of NCR would not be a ground for rejection of this application.

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

- (i) In the event of arrest of the Applicant in C.R. No.580 of 2018 registered with Daund Police Station, District -Pune, the Applicant shall be released on bail on furnishing bail bonds of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall report to the Daund Police Station, for a period of four days from 2.11.2018 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required and called by the concerned Investigation Officer.
- (iii) The Applicant shall furnish his permanent as well as

temporary address, if any, and his contact details to the investigation officer.

(iv) The Applicant shall not change his residential address without prior intimation to the concerned investigation officer.

(v) The Applicant shall not interfere with the first informant and other witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)