

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

ANTICIPATORY BAIL APPLICATION NO. 2407 OF 2018

Pandit Tukaram Patil	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Ms. Sushma T. Mishra for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.
DATE : 26th NOVEMBER, 2018.

P.C.

1. This is an application for anticipatory bail in connection with CR No. I-246 of 2018 registered with Hill Line Police Station for offence punishable under Sections 307, 452, 504, 143, 147, 149 of Indian Penal Code and section 37(3) and 135 of Maharashtra Police Act.

2 The case of the prosecution is that the informant lodged his report to police on 5th October, 2018. It is alleged that Yuvraj Patil and Pratap Patil gave dash of their scooty to the Alto Car of the informant. Hearing sound of dash, informant and her husband came out of the house and they saw that the number plate of the car was broken and smoke was coming out from the engine of the

vehicle. The husband of the informant asked the applicant and Pratap Patil as to why they gave dash to the vehicle. They started abusing the informant and her husband. Informant's husband demanded compensation for the damage caused to the car. Accused abused the informant and her husband and went away. After some time the applicant and Pratap Patil along with other persons came at the scene of offence. They were armed with sword and sticks. They started abusing the informant and her husband. They threatened the complainant's husband that he would be killed. Thereafter, all of them dragged the injured out of the house. Informant's mother-in-law tried to intervene. The accused assaulted informant's husband by sticks. One of the accused gave a blow of sword to cause injuries to the informant's husband, but, mother-in-law came in between and sustained injury on her left hand finger. All the accused had assaulted by sticks to informant's mother-in-law as a result of which her hand was fractured. At that time Jagdish Patil and Ashok Patil assaulted with stick to the informant's husband with intention to kill him. Hence, FIR was lodged.

3. It is submitted by the learned counsel for the applicant that on account of enmity, the applicant has been falsely implicated in

this case. It is submitted that applicant is disabled person which is evident from the certificate annexed to this application. Certificate indicate that the applicant is physically handicapped on account of post polio residual paralysis left limb RPD 60% (Sesctycally). It is submitted that the First Information Report alleges that the applicant was armed with the sword and assaulted witness Changulabai and also assaulted to another witness Darshan by sword. It is the case of the prosecution is that the applicant was armed with sword and subsequently he took wooden stick from the other accused and assaulted the witness Darshan Patil. It is submitted that injured Changulabai has sustained minor injury to her finger and Darshan Patil had sustained fracture. Taking into consideration both the injuries, Section 307 of Indian Penal Code would not be attracted. It is also pointed out that one of the accused had sustained contusion lacerated wound, however the complaint was not registered by the police. It is also submitted that due to dispute between the families, the applicant has been falsely implicated in this crime.

4. Learned APP strongly opposed the grant of anticipatory bail. It is submitted that old lady Changulabai had sustained injury towards the finger due to assaulted by the sword at the instance of

the applicant. He further submitted that other witnesses were also assaulted by the applicant by wooden log. The injuries was serious. The disability certificate relied upon by the applicant does not indicate that the applicant was not in a position to move or commit such act. Investigation is in progress. The case for grant of anticipatory bail is not made out. Hence, application be rejected.

5. On perusal of the First Information Report and other documents, it appears that the cause of incident in respect of dash given by the son of the applicant to the vehicle of the opponents. There was quarrel between both the families which has resulted into assault as referred herein above. Admittedly, the witness Changulabai had intervened to save her son from being assaulted and at that time she had sustained blow by sword which has resulted injury to her finger. The injury sustained by other witness Darshan Patil would not be sufficient to invoke the charge under Section 307 of Indian Penal Code. Applicant appears to be disabled person. It would not be appropriate to scan and appreciate the evidence at this stage. However, considering the nature and the circumstances as stated herein above, applicant need not be subjected to police custody. In the circumstances, the

case for grant of anticipatory bail is made out.

ORDER

- i. Anticipatory bail application is allowed;
- ii. In the event of arrest of the applicant in connection with C.R. No. I-246 of 2018 registered with Hill-line Police Station, Kalyan, District Thane, he may be released on his furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the Investigating Officer once in a week on Friday between 10 a.m. to 12 noon till filing of the chargesheet;
- iv. Applicant shall not tamper with the evidence;
- v. Anticipatory Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)