

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

BAIL APPLICATION NO. 2927 OF 2017

1 Dattatrata @ Phatya Gulab Kalapure.	
2 Santosh @ Mundy Magan Arvekar.	
3 Satish Mahadev Kadam.	
4 Umar @ Chotu Mohammad Pathan.	
5 Santosh @ Babu Chandrakant Kadam.	... Applicants.
Versus	
The State of Maharashtra.	... Respondents.

Mr. A.P. Mundargi, Sr. Counsel i/b. Mr. Jayant J. Bardeskar,
advocate for Applicant.

Ms. P.P. Shinde, APP for State.

Mr. Prabhakar T. Khanse, Havildar, Pimpri Police Station, Pune.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 17, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP.

2 This is an application under section 439 of the Code of Criminal
Procedure, 1973. The applicants herein are arrested on 10/4/2017 in

Crime No. 201 of 2017 registered at Pimpri Police Station for offence punishable under section 302, 323, 342, 506, 143, 147, 148 and 149 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 10/4/2017 one Rishikesh Kate lodged a report at the police station alleging therein that on 9/4/2017 he alongwith his friend Datta Ingale met Suhas Haldankar. They had been to tea stall for having tea. At that time, Suhas Haldankar allegedly disclosed to him that Sandeep Kalapure was threatening him of dire consequences since there was quarrel between Sandeep Kalapure and Suhas Haldankar. It is alleged that Suhas Haldankar had departed from their company. That within no time, there was an altercation between Sandeep Kalapure, Pratul Ghadge and Abhijit Kalapure in one side and Suhas Haldankar on the other side and he had seen them quarreling. Thereafter he had seen that one Sadguru Kadam assaulted Suhas Haldankar with a cement paver block and thereafter Pratul Ghadge, Sandeep Kalapure,

Santosh Aarbekar and Pravin Kadam and others had assaulted Suhas Haldankar with paver blocks. He had sustained bleeding injuries and was lying unconscious in a pool of blood.

4 No doubt the applicants have been named in the first information report by Rishikesh Kate who has posed as an eye witness. In the course of investigation, police had seized images captured in CCTV footage which was installed outside Hind Kamgar Sangathana. The transcript of the CCTV footage alongwith panchanama forms part of the charge-sheet. Police had called Gaikwad and Manik Joshi as panchas since they were residing in the same locality and were acquainted with all the persons named in the FIR as well as Suhas Haldankar. CCTV footage clearly indicates that at about 9.55 Suhas Haldankar was sitting on his motor cycle near the public wash room. Sandeep had reached on the spot. There was an exchange of words between Sandeep and Suhas Haldankar. Thereafter, Sandeep Kalapure had given a fist blow to Suhas Haldankar. He tried to rescue himself and flee from the clutches of

Sandeep Kalapure. Within no time, other two persons namely Pravin Sawant and Abhijit Kalapure had chased him and had pelted cement paver blocks at him and had brutally assaulted him. CCTV footage also shows that after the incident was over, the first informant had come on the spot on his motor cycle.

5 Learned Senior Counsel for the applicant submits that the circumstances speak for themselves. That the images captured in the CCTV footage clearly shows the role played by all the persons. It is apparent that the paver blocks were pelted only by 3 persons i.e. Abhijit Kalapure, Pravin Sawant and Sandeep Kalapure. The CCTV footage clearly indicates that the applicants were not present on the scene of offence at the time of the incident. It is submitted that they have been falsely implicated due to political rivalry.

6 As against this, the learned APP submits that the applicants have criminal antecedents. The applicant No. 1 and applicant No. 2 are accused in Crime No. 418 and 648/15 registered at Pimpri

Police station. The applicant No. 3 is an accused in CR Nos. 179/09, 50/2012, 380/2014, 418/2014, 648/2018. The applicant No. 4 is an accused in C.R. No. 648/2015. Applicant No. 5 is an accused in C.R. No. 648/2015. Therefore, they do not deserve to be enlarged on bail.

7 As against this, the learned Senior Counsel submits that just because two offences are registered against the applicants and are pending before the court of law, it cannot be presumed that the applicants are involved in the present case, especially when there is no material to remotely indicate that the present applicants were even present at the scene of offence when Suhas Haldankar was assaulted by 3 persons namely, Pravin Sawant, Sandeep Kalapure and Abhijit Kalapure.

8 Taking into consideration the papers of investigation and submissions advanced across the bar, this Court is of the opinion that the applicants have made out a case for grant of bail.

9 The observations hereinabove are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing FIR, discharge application or at the time of trial.

10 Hence following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- each and one or more solvent sureties in the like amount.
- (iii) The applicants shall report to Pimpri Police Station on every alternative Sunday till the charges are framed.
- (iv) The applicant shall not tamper with the evidence.
- (11) The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)