

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI ANTICIPATORY BAIL APPLICATION NO. 2442 OF 2018

Bhanudas Vasant Dhasade & anr. ...Applicants

Versus

State of Maharashtra ...Respondent

Mr. Kuldeep Patil, a/w Ms. Megha Bajaria, for the Applicants.
Mr. R. M. Pethe, APP for the Respondent/State.
Mr. T. B. Bhoje, PSI, Kasara Police Station, present.

CORAM: PRAKASH D. NAIK, J

DATED: 5th December, 2018

PC:-

1. This is an application for anticipatory bail in connection with CR No.I-64 of 2018 registered with Kasara Police Station, for the offences punishable under Sections 341, 143, 147, 148, 149, 323, 324, 326, 504, 506 of Indian Penal Code. FIR was lodged on 10th July, 2018 by Nikhil Barku Dhasade.

2. The case of the prosecution is that on 9th July, 2018 the complainant and his cousin Kalpesh Dhasade had proceeded to the field and after completing the work they were returning to home on motorcycle. When they reached near Maruti temple in the village, it was noticed that Bhanudas Dhasade, Ajay Dhasade, Nayan Dhasade, Bala Dhasade, Kishor Sable and others were sitting on the boundary of the road and on account of previous quarrel they abused and assaulted complainant and his cousin by iron rod and fist blows. It is alleged that Bhanudas

Dhasade had assaulted the complainant by giving blow of iron rod on his wrist and Ajay Dhasade had assaulted cousin of the complainant by iron rod on his head, which resulted in injuries. The other accused assaulted them by fist and kick blows. The complainant and his cousin were treated in the hospital. The assault on the complainant resulted in fracture to his hand and the other injured Kalpesh had sustained injuries, which were simple in nature.

3. The learned Counsel for the applicants submitted that the applicants are falsely implicated in this case. It is further submitted that the cross case was registered by Kishor Sable on 12th July, 2018 and offence were registered under Section 143, 147, 148, 149, 452, 323, 324, 504, 506 read with Section 34 of Indian Penal Code. It is submitted that on account of dispute and assault between the parties, both parties had agreed to compromise and from the side of the applicants it was agreed to deposit the amount of Rs.12,000/- towards the medical expenses of the injured persons. The said amount was also deposited which is borne by the receipt of the deposit. It is submitted that the complainant had backed out from the settlement and registered an FIR. Kishor Sable was also injured in the assault wherein he has attributed overtact to Nikhil Dhasade and Kalpesh Dhasade, who are the complainant and the injured person in the present CR No.I-64 of 2018.

4. Learned APP submitted that the complainant had sustained serious injury which had resulted in fracture to his hand and the accused were armed with weapons. The arrest panchnama of Kishor Sable do not indicate that he had

sustained any injury. It is further submitted that specific overtact has been attributed to the applicants who were armed with iron rod. Accordingly cross complaint has been registered. The applicants are not entitled for grant of anticipatory bail.

5. I have perused the documents annexed to this application. The alleged incident had occurred on 9th July 2018. The case of the prosecution is that the complainant and his cousin were obstructed while proceeding on motorcycle and they were assaulted by weapons. It is not disclosed whether the incident was premeditated or occurred at the spur of moment. It is seen that the complainant had sustained fracture to his hand and the other injured had also sustained simple injury. FIR was registered after two days. The fact that the FIR is registered belatedly fortify the submissions advanced by the learned Counsel for the applicants that there was a compromise and an amount of Rs.12,000/- was deposited in the hospital for medical treatment. The said fact is also spelt out in the FIR lodged by Kishor Sable. Apparently said FIR was also lodged on 12th July, 2018. The complainant Kishor Sable has lodged an FIR vide CR No.142 of 2018. It also appears from the FIR that there was enmity between both groups on account of previous quarrel. Considering the factual aspect of the case, the applicants need not be subjected to custodial interrogation and anticipatory bail can be granted to them on certain terms and conditions. The mater was earlier adjourned for producing the injury certificate of Kishor Sable. However, the Officer who is present in the Court could not produce the same. Learned APP however submitted that arrest panchnama does not indicate that Kishor Sable had sustained any injury.

6. Hence the following order:

: O r d e r :

- (i) Anticipatory Bail Application No.2442 of 2018 is allowed.
- (ii) In the event of arrest of the applicants, in CR No.I-64 of 2018 registered with Kasara Police Station, for the offences punishable under Sections 341, 143, 147, 148, 149, 323, 324, 326, 504, 506 of Indian Penal Code, be released on bail on furnishing Personal Bond of Rs.20,000/- each with one or more sureties in the like amount.
- (iii) Applicant shall report the Investigating Officer on 10th, 11th, 12th December, 2018 between 11.00 am. to 1.00 pm. and thereafter as and when called for till the filing of charge-sheet.

7. Application stands disposed of.

[PRAKASH D. NAIK, J.]