

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

ANTICIPATORY BAIL APPLICATION NO.522 OF 2018

1. Rushi Gajanan Dalimkar
2. Sanjay Yogiraj Dalimkar
3. Deepak Shrikisan Wakaskar
4. Bhagwat Shrikisan Dalimkar ..Applicants.

V/s.

The State of Maharashtra ..Respondent.

Mr.Akshay A.Naik, for the applicants.

Mr.M.K.Pathan, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : AUGUST 14, 2018

P.C.:-

Heard the learned counsel for the applicants and the learned APP for the respondent-State.

2. It appears that out of election rivalry, the applicants formed an unlawful assembly with common object and assaulted

the victim resulting into registration of crime No.169/2018 for the offences punishable under section 143, 147, 148, 149, 307, 452, 120B and 506 of the Indian Penal Code.

3. Mr.Naik, the learned counsel for the applicants strenuously urged that the applicants are falsely implicated in the crime in question. So as to substantiate his contention, he would invite the attention of this Court to the order dated June 28, 2018 passed by the learned Sessions Judge, Buldhana accepting the plea of alibi in respect of some of the co-accused. He would submit that considering the same, the case of false implication can be easily inferred.

4. Apart from above, he would urge that one counter F.I.R. from the group of the present applicants is filed against the complainant as the group of the complainant also assaulted the applicants and *Mense rea* attributed is required to be analyzed keeping in mind the issue of counter complaint.

5. *Per contra*, the learned APP would invite attention of this Court to the specific role attributed to the accused in the F.I.R.

and also in statements of the witnesses. He sought rejection of anticipatory bail.

6. So far as Bhagwat and Rushi are concerned, specific role is attributed to them since beginning i.e. from the F.I.R. that they were armed with iron rod and axe whereas applicant Nos.2 and 3 were holding sticks. I have seen the injury certificate which corresponds with the injuries caused with the weapons referred to each of the applicants but for applicant Nos.2 and 3.

7. Apart from above, there appears to be common intention of the applicants to form an unlawful assembly with the object to commit the crime in question. That being so, application preferred by the applicants Bhagwat and Rushi are concerned, the same stands rejected. They are *prima facie* involved in the crime in question. Whereas, Sanjay and Deepak are concerned, the only role attributed is that of holding sticks with no specific allegations of assault.

8. In view thereof, the application is partly allowed in respect of applicants Sanjay Yogiraj Dalimkar and Deepak

Shrikisan Wakaskar.

- i) In the event of arrest of the applicants Sanjay Yogiraj Dalimkar and Deepak Shrikisan Wakaskar in crime No.169/2018 for the offences punishable under section 143, 147, 148, 149, 307, 452, 120B and 506 of the Indian Penal Code, they be released on furnishing P.R. bond of Rs.15,000/- each with one or more sureties in the like amount;
- ii) Both the applicants shall report to the Investigating Officer on August 20, 2018, August 24, 2018 and August 27, 2018 between 10.00 a.m. to 12.00 p.m. and thereafter as and when called;
- iii) The application against applicants Rushi Gajanan Dalimkar and Bhagwat Shrikisan Dalimkar stands rejected.
- iv) The application stands disposed of accordingly.

(NITIN W.SAMBRE, J.)