

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

ANTICIPATORY BAIL APPLICATION NO. 2711 OF 2019

Sandeep @ Sachin Vinayak Dhawale

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. V.V. Purwant a/w Rushikesh Kale, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the State-Respondent.

Mr. Ashish Sawant, Advocate for Original Complainant.

Mr. Rajkumar B. Kendre, (P.I.)- I.O. Tembhurni Police Station,
Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th December, 2019

PC :

1. This is an application for anticipatory bail in connection with C.R. No. 460 of 2019 registered with Tembhurni Police Station, Solapur, for offences punishable under Sections 307, 341, 143, 147, 148, 149, 323, 504, 506, r/w 120(B) of Indian Penal code.

2. The case of the prosecution is that the complainant Balasaheb Dhawale in his FIR dated 5th August, 2019 has alleged that on 4th August, 2019 he had visited his farm. While returning at about 6.30 p.m. accused Sachin Dhawale obstructed him. The other accused hiding themselves came forward. Accused Aakash Dhawale, Vishal Patil, Aadesh Dhawale were armed with Sattur and Sickle. Vitthal

Dhawale threatened the complainant and instigated others. At that time Akshay and Hrishikesh pulled him from his motorcycle. The complainant started running from the place of incident to save himself. At that time Aakash assaulted him by sickle and gave blow on the head of the complainant. He sustained injury and started bleeding. He was chased by the accused armed with weapon and they assaulted him. He managed to avoid the blow. Then Sachin Dhavale obstructed him again and gave blow by sattur on his head. Annasaheb Dhavale, Hrishikesh @ Gotya Satish Dhavale assaulted him by kick blows. Sagar Dhavale and nephew Dattatray reached there. However, they were threatened by Ganesh Dhavale and Aadesh Dhavale. Thereafter, all the accused ran away from the place of incident. The complainant was treated in the hospital for the injuries sustained by him.

3. The applicant is apprehending arrest in connection with the aforesaid offences. Two other complaints were lodged against accused on 10th June, 2019 and 20th July, 2019. The present FIR was lodged on 5th August, 2019.

4. Learned advocate for the applicant submitted that false case has been registered against the applicant. The FIR has been registered on account of rivalry. The applicant was not present at place of incident. He is a student. As a part of his education he had

visited village Dewoolgaonraje situated at about 100 Kms. away from the place of incident. He relied upon the documents claiming alibi. According to the applicant, the attendance register shows his presence at the place of the project on the date of incident. He had attended the project. Reliance is also placed on the letter issued by Saikrupa College of Agriculture, Chargaon dated 19th September, 2019 indicating that the college had conducted the project for the period mentioned therein.

5. It is also stated that the village Dewoolgaonraje was selected for the project which is situated at about 60 Kms. from the college. Students had left the college on 10th June, 2019 at about 2.00 p.m. and they had reached the said place at 5.00 p.m. The applicant has been falsely implicated in this case. Learned counsel for the applicant submitted that the statements of the students were recorded belatedly and apparently they were pressurized to make statements in support of prosecution.

6. Learned APP submitted that the ground of alibi is false. The applicant has been attributed specific overt act of assaulting the injured. The medical certificate corroborates the version of the complainant. It is further submitted that the statement of the students were recorded in which they had mentioned that the applicant used to leave without intimating others on 4th August,

2019, he was not present at the place of the project. He returned at about 11.30 p.m. Learned counsel for applicant submitted that there is delay in recording statements of students. Learned APP further submitted that there is every possibility of signing the attendance register subsequently. Learned counsel for the intervenor also reiterated the submissions of learned APP. It is submitted that the ground of alibi has been rejected by the Sessions Court. The applicant has been attributed specific overt act.

7. I have perused the documents annexed to the application, FIR, and the investigation papers. The first informant has attributed specific overt act of assault by weapon to the applicant. There are eye witnesses to the incident. The investigation conducted by the police is contrary to the ground of alibi agitated by the applicant. Considering the nature of evidence collected by the police at this stage the ground of alibi cannot be accepted. The applicant has participated in crime. His custodial interrogations is necessary.

8. Hence, I pass the following order.

ORDER

Anticipatory Bail Application No.2711 of 2019 stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)