

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 65 OF 2019

Nasir Ashraf Khan & Ors.	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO. 103 OF 2019
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 65 OF 2019**

Abdul Wahab Mohd. Yasin Ansari	...	Intervenor
<u>In the matter between :-</u>		
Nasir Ashraf Khan & Ors.	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 111 OF 2019**

Jokhai Hooplal Sharma @ Rocky & Ors.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO. 155 OF 2019
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 111 OF 2019**

Abdul Wahab Mohd. Yasin Ansari	...	Intervenor
<u>In the matter between :-</u>		
Jokhai Hooplal Sharma @ Rocky & Ors.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

Mr.V.A. Thorat, Senior Advocate a/w. Ms.V.V. Thorat for Applicants in ABA/65/2019 and ABA/111/2019.

Ms.J.S. Lohokare, A.P.P. for Respondent-State.

Mr.Nitin Pradhan a/w. Mr.Vinod Sangvikar for Intervenor.

Mr.Sharad Surve, API, Oshiwara Police Station.

CORAM : A.S. GADKARI, J.

DATE : 26th March 2019.

P.C. :

1] The applicants in both the Anticipatory Bail Applications are apprehending arrest in connection with C.R. No.510 of 2018 dated 12/11/2018 registered with Oshiwara Police Station, Mumbai, for the offence punishable under Section 326, 324, 323, 143, 145, 147, 148, 149, 504 of the Indian Penal Code.

2] Heard the learned Senior Counsel for the applicants, the learned Counsel for the Intervenor and the learned APP for the State. Perused the record of investigation.

3] The first information report is lodged by Mr.Abdul Wahab Ansari.

The prosecution case in brief is that, on 12/11/2018 at about 1.30 pm, the developer of Ghas Compound Industrial Association,

namely, Mr.Ahat Khan and his brother Mr.Abdul Wahab along with their associates had been to the site for conducting soil testing. At that time, the applicants herein questioned their presence and also demanded the permission granted by the concerned authority for conducting the said test. An altercation took place, which ensured in a free fight. It is alleged that in the said fight, the applicants herein assaulted the informant and one Abdul Kalam Rustam Shah with wooden baseball bat, fists and kick blows. It is also alleged that the witness Shehjad Gulam Rasul Shaikh was assaulted with an iron rod. In the premise, the first information report is lodged.

4] The record further indicates that there is a cross complaint bearing C.R. No.511 of 2018 for the offence punishable under Section 307, 326, 324, 323, 143, 144, 145, 147, 148, 149, 452, 504, 506 of the Indian Penal Code and Section 4, 25 of the Arms Act. The said crime is registered by Mr.Wahab Khan. In the said crime, it is alleged that the accused persons mentioned in the said crime assaulted the first informant and other persons (who are from the group of the applicants) with sword, iron rod, hockey stick and bamboo stick. In the said assault, the first informant has suffered a grievous hurt to his right eye. The

medical report *prima-facie* indicates that the concerned person has lost his right eye.

5] Thus, there is a case and a counter case and the presence of the applicants, at the scene of offence, is *prima-facie* established. The record of investigation indicates that the alleged weapons used by the applicants herein have been seized by the police from the scene of offence itself. It further *prima-facie* appears that in the melee the persons from the group of the applicants herein have suffered more grievous injuries than the persons from the group of the informant in C.R.No. 510 of 2018. It further appears that the investigation of the present crime is on the verge of completion.

It *prima-facie* appears from the record that there are two groups in the said Ghas Compound Industrial Association scheme, who are intending to have control over the said project and the present crimes i.e. C.R. No.510 of 2018 and C.R.No. 511 of 2018 are the outcome of the said tussle.

6] In view of the above and after taking into consideration the peculiar facts of the present case, this Court is of the opinion that, the custodial interrogation of the applicants for further investigation of the

present crime is not necessary and the applicants can be granted pre-arrest bail.

7] Hence, following order.

- (i) In the event of arrest in CR No. 510 of 2018 registered with Oshiwara Police Station, Mumbai, the applicants shall be released on bail on their furnishing PR bond in the sum of Rs.15,000/- each, with one or two separate local sureties in the like amount.
- (ii) Applicants shall not tamper with the evidence and/or interfere with the process of investigation.
- (iii) Applicants shall attend the Investigating Officer from 2nd April 2019 to 5th April 2019 between 10:00 am to 1:00 pm and to joint the process of investigation.
- (iv) Application is allowed in the aforesaid terms.
- (v) In view of disposal of the Anticipatory Bail Application(s), the Intervention Application(s) being Criminal Application Nos. 103 of 2019 and 155 of 2019 do not survive and are, accordingly, disposed off.

[A.S. GADKARI, J.]