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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.376 OF 2019

1. Naresh Prakash Walmiki
2. Suraj Naresh Walmiki ..Applicants.
V/s.
The State of Maharashtra ..Respondent.

Mr.Satyam Nimbalkar for the applicants.

Smt.Rutuja Ambekar, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 18, 2019

P.C.:-

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

2. In crime No.308/2018 for offence punishable under sections 302, 341, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code and sections 4, 5, 25 and 27 of the Arms Act registered with Daund police station, Pune, the applicants are seeking pre-arrest bail.

3. The other co-accused are already charge-sheeted. During the course of investigation, statements of eye witnesses are

recorded wherein the presence of the applicants is specifically mentioned in the commission of an offence punishable under section 302 of the Indian Penal Code.

4. The submissions are, there are vague and general allegations against the applicants and no specific overt act is attributed which warrants their custodial interrogation.

5. It is also claimed that there are no criminal antecedents. As such, it is claimed that the applicants are entitled to be released on pre-arrest bail, considering the fact that other similarly placed co-accused are already ordered to be released on bail by this Court by order dated January 23, 2019.

6. Learned APP, from the statements of Smt. Malan Shinde and other eye-witnesses including the contents in the F.I.R., submits that presence of the applicants on the spot of the incident can be very well inferred. According to her, the offence is serious, punishable with life or death and that being so, the application is liable to be rejected.

7. Considered submissions.

8. The contents of the complaint as also the statements of the eye witnesses though in categorical terms speak of presence of

the applicants on the spot of incident when the offence was committed, but for general attributions of assault by swords, iron rods and stones, there is hardly any material to infer direct involvement of the applicants in the crime in question. It can also be inferred from the record that other similarly placed accused are ordered to be released on bail by this Court.

9. The statement made by learned counsel for the applicants that there are no criminal antecedents against the applicants is accepted as made before the Court while considering the prayer for grant of pre-arrest bail. Hence the order :-

- i) In the event of arrest in Crime No.308/2018 for offence punishable under sections 302, 341, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code and sections 4, 5, 25 and 27 of the Arms Act registered with Daund police station, Pune, the applicants be released on bail on their furnishing P.R. bond of Rs.25,000/- each with on or more sureties each in the like amount;
- ii) The applicants shall attend the Investigating officer on as and when directed;
- iii) The applicants shall not influence the prosecution witnesses

or tamper with the evidence;

- iv) The applicants shall co-operate with the investigating agency;
- v) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)