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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 527 OF 2019

1. Mohan S/o Manohar Ambre	}	
2. Suresh Shankar Kadu	}	
3. Vishnu Sadashiv Ambre	}	
4. Suresh Shankar Chalke	}	
5. Rajendra Dattaram Ambre	}	Applicants
6. Jeevan Govind Ambre	}	
7. Sachin Sudhir Kate	}	
8. Mangesh Sitaram Chalke	}	
9. Sachin Shriram Kadu	}	

V/s.

The State of Maharashtra	Respondent
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WITH

ANTICIPATORY BAIL APPLICATION NO. 533 OF 2019

1. Sunil Babaram More	}	
2. Ankush Kate	}	
3. Arvind Chavan	}	
4. Mahesh Sakharam Gawalkar	}	Applicants
5. Ravindra Dattaram Kate	}	
6. Dilip @ Babu Ambre	}	
7. Chandrakant Raghunath Chalke	}	

V/s.

The State of Maharashtra	Respondent
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Mr. Shyam Dewani a/w Mr. Vinay Kumar i/b Dewani and Associates
for the applicant in ABA No. 527/2019

Dr. Nilesh B. Pawaskar for applicant in ABA No. 533/2019

Mr. S. H. Yadav APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 6, 2019.

P.C.

In both applications, applicants are seeking pre-arrest bail in Crime no. 22/2019 registered with Khed Police Station, District Ratnagiri for offence punishable under sections 143, 144, 145, 146, 147, 148, 149, 152, 285, 307, 323, 324, 332, 333, 341, 352, 353, 397, 427, 435, 506 of the Indian Penal Code and section 3, 4 & 7 of Prevention of Damage to Public Property Act and Sections 135, 37(3) of Bombay Police Act, 1951.

2 The prosecution case is, applicants formed an unlawful assembly and under the banner of protesting the inaction of police in catching the real culprits in the case of cow slaughter, intentionally disturbed the traffic on the Mumbai-Goa National Highway. The Tahsildar and police officials when tried to intervene,

applicants assaulted police officials, removed valuables, caused damage to Government vehicles and public premises by pelting stones. As such, offence in question.

3 The submissions of respective learned counsel are, the applicants are falsely implicated in the crime in question. The learned counsel have also relied upon the CD recording so as to submit that applicants have not actively participated in the crime in question. According to applicants, in the capacity of public representatives, they were trying to control the mob of agitators. It is also claimed that F.I.R. does not specifically alleges any overt act, as such, applicants are not named in the F.I.R. Other co-accused who are specifically named are already arrested. According to learned counsel, the offence is alleged to have been committed in two parts viz. Agitation and thereafter violent attack. It is claimed that participation of applicants in protest is only to that extent of agitation. Applicants are not involved in later part i.e. of attacking the police officers, damaging public property and vehicles. It is claimed that applicants have deep roots in the society and are very

much available for the investigation. Applicants have shown their inclination to deposit the entire amount of damage allegedly caused in the commission of offence.

4 Per contra, the learned APP would strenuously urge that the names of applicants are mentioned in F.I.R. Investigation reveals that applicants, some of whom are public representatives, have instigated members of the mob and also attacked the police officials, caused damage to public property. It is claimed that because of the act of the applicants, Law and Order scenario in the area was disturbed. Criminal antecedents against applicants is also sought to be relied upon. As such, prayer for rejection is sought.

5 Having considered rival submissions, what is noticed from the investigation papers, name of each of the applicant is mentioned in the F.I.R. Witnesses to the incident have specifically attributed overt act to each of the applicant with active role and there are photographs to that effect on the record.

6 In spite of order passed under Maharashtra Police Act, applicants have formed unlawful assembly, blocked Mumbai-Goa National Highway thereby resulting into long traffic jam. The applicants also pelted stones on public and private vehicles.

7 It is noticed that because of the act of the applicants, traffic on each side was unable to move forward resulting into waiting line of vehicles of almost more than 5 Kms on each side for hours together including the fact that their life was put in danger because of violent act of the applicants.

8 Applicants have damaged the police vehicles, vehicle of Tahsildar, State Transport buses and also private vehicles. Police vehicle was set on fire by the applicants thereby causing damage to the tune of more than Rs. 4 Lakhs. The total damage to the public property assessed as on date is to the tune of more than Rs. 10 Lakhs.

9 Applicants have used stones, sticks etc for the purpose of

commission of crime in question. Apart from above, the fact remains that witnesses to the incident have specifically named each of the applicants with an overt act and use of weapon like stick, stone etc.

10 Amongst other, applicants were found to be instigating members of the public, being their representative and same has resulted into disturbance of Law and Order situation for more than period of three hours.

11 Because of the acts of the present applicants, general public were made to suffer.

12 In the aforesaid background, having noticed sufficient material on record *qua* the *prima facie* involvement of the applicants in the crime in question, applications stand rejected.

[NITIN W. SAMBRE, J.]