

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

ANTICIPATORY BAIL APPLICATION NO.1385 OF 2019

Nutan Sunil Aher & Ors.

...Applicants

Vs.

State of Maharashtra

...Respondent

Mr. Hitesh P. Shah, for the Applicants.

Mr. Prashant Jadhav, for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : JUNE 28, 2019

P.C.:

The applicants are seeking anticipatory bail in connection with C.R. No.I-117/2018 registered at Deola Police Station, Nashik under Sections 353, 160, 143, 147, 323, 427, 504, 506 r/w. 149 of IPC.

2. The FIR is lodged on 2/8/2018. The applicant No.2 is the husband of applicant No.1. Applicant No.3 is brother of applicant No.2. Applicant Nos.4 and 5 are sons of applicant No.3. Applicant No.6 is wife of applicant No.3. Applicant No.8 is sister of applicant No.2. Applicant No.7 is husband of applicant No.8. Thus, all of them are closely related.

3. The FIR in this case is lodged by PI Gulabrao Patil attached

to Deola Police Station on 2/8/2018. He has stated that on 1/8/2018 all the applicants came to the Police Station. Their grievance was that one Ashok Aher had tagged a Whats-APP group post posted by the applicant No.2. Said Ashok Aher had posted a very obscene comment. The applicant No.1 was claiming that he had committed offence of outraging her modesty and other offences. She wanted to lodge FIR against Ashok Aher. While FIR was being recorded, at that time, aforementioned person Ashok Aher came to the police station. Immediately, there was quarrel between the applicant's group and Ashok Aher's group. The incident started taking a serious turn. Therefore, the first informant took Ashok Aher to his cabin. The tempers were running high and slowly a sizable crowd started gathering outside the police station area. Therefore, additional police force was called.

4. At around 8.00 p.m. opposite group of the applicants came to the police station. They pushed away the barricades kept by the police. They entered the informant's cabin. While coming to the police station, the opposite group had assaulted applicant No.7. Therefore, applicant No.7 was insisting that even his FIR should be recorded. Applicant Nos.7 and 8 then started hurling abuses and broke the glass

on the table. At the same time, their opposite group consisting of Keda Aher, Sanjay Aher etc. started threatening the first informant and removed the CCTV connection. In the meantime, applicant Nos.7 & 8 continued hurling abuses and they wanted their FIR to be lodged. In the meantime, since Ashok Aher was allowed to go out, the applicant's group got angry and the applicants were saying that they would commit suicide. After that the applicant Nos.1 and 7's complaint were recorded. Police bandobast was employed in the city and Ashok Aher was arrested. After all this, present FIR was lodged against the applicants group as well as against the members of the opposite group. The applicants are seeking anticipatory bail in this connection.

5. I have heard Mr. Hitesh Shah, Ld Counsel for the applicants and Mr. Jadhav, Ld. APP for the State.

6. Perusal of the FIR shows that on 2/8/2018, the applicant's group as well as their opposite group had gone to the police station and the occurrence of the incident can hardly been disputed. In the entire FIR there is hardly any role worth mentioning attributed to applicant Nos.3 to 6. Applicant No.1 was really the aggrieved lady who had come to police station to lodge the FIR. Both applicant Nos.1 and 2 were

genuinely offended by the comment posted by Ashok. Therefore, their grievance was genuine. At the same time, applicant No.7 was assaulted just outside the police station. Therefore, even his grievance was justified. The only question is whether these applicants had overreacted or had acted intentionally in obstructing the first informant and his colleagues from performing their duty.

7. The FIR thus indicate that the opposite group had gathered in numbers and was trying to over power the police officials. Thus, from the entire allegations, it appears that the applicant's group was victimised by the opposite group though the applicants should not have overreacted in the manner in which they had. The incident has taken place almost 10 months back. At this stage, their custodial interrogation will not serve any purpose. Neither of the applicants has any criminal antecedents against his/her name. The applicants of course will have to co-operate with the investigation. However, the custodial interrogation of the applicants is not necessary. Hence, the following order.

ORDER

1. In the event of their arrest, the applicants are directed to be released on bail in connection with C.R. No.

I-117/2018 registered at Deola Police Station, Nashik on their executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties each in the like amount.

2. The applicants shall co-operate with the investigation.
3. The application is disposed of.

(SARANG V. KOTWAL, J.)