

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1395 OF 2019

Ishwar Govind Narale & Anr.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. Rajas Naik, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

Mr. S.S. Kakade, PC 2512 attached to Mhaswad Police Station present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 28th JUNE, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with C.R.No.86/2019 registered with Mhaswad Police Station, District Satara u/sec. 307, 324, 323, 504, 506 r/w 34 of I.P.C.

2. The FIR is lodged by one Sachin Narale on 03/05/2019 in respect of the incident dated 18/04/2019. He has stated in his FIR that on that day at around 8.30 a.m., he heard shouts from behind his house, therefore he and his father went to see what had happened. They saw that one Santosh Narale was assaulting Subhash with iron

rod on his head, back and chin. The present Applicant No.1 was assaulting Dwarkeshwar Narale with sword on his head and stomach. When the first informant tried to intervene, all the accused abused and started attacking on him. Applicant No.2 assaulted the first informant with iron rod on his chin and accused Santosh assaulted him with iron rod on his left ear. Afterwards the first informant and other injured were removed to the hospital.

3. The investigation is being carried out. The injury certificate of the first informant Sachin shows that he had suffered fracture and there was one more grievous injury over left ear. Another injured Sugriv had suffered CLW over occipital region having dimensions 4 x 2 x 2 cm and an abrasion over left side. Both the injuries were described as simple injuries. The third injured Subhash had suffered two CLWs, one was on the head and other was on the chin. He had also suffered one abrasion over right capita region.

4. Heard Mr. Rajas Naik, Ld. Counsel for the Applicant and Ms.S.S.Kaushik, APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that the offence is lodged because of the grampanchyat politics and the applicants are falsely implicated. He pointed out that one of the co-accused Janardan Govind Narale is granted anticipatory bail by this court vide order dated 25/06/2019. He further submitted that though the incident had taken place on 18/04/2019, the FIR was lodged much belatedly on 03/05/2019. He submitted that in any case Applicant No.1 is not attributed any serious role as the injury caused because of his attack was a simple injury.

6. Ld. APP opposed this application. She submitted that their roles are different from the accused who was granted anticipatory bail.

7. Besides the first informant there are three other injured eye witnesses whose statements are recorded. All these statements could consistent and they have consistently described the role of the present applicants. Applicant No.2 is attributed role of assaulting the first informant with iron rod on his chin. The informant has suffered fracture. Therefore, there is corroboration by the medical evidence. Applicant No.1 assaulted one Sugriv @ Dwarkeshwar with sword.

Though the injury is described as simple injury, it appears on the head having dimensions of 4 x 2 x 2 cm. To attract offence u/sec. 307 of I.P.C., it is not even necessary that any injury should be caused, the intention if it is clear from the fact, then the offence u/sec. 307 of I.P.C. is made out. The case of the present applicants is materially different from the case of co-accused Janardan Narale as the eye witnesses had not given any specific role or the weapon to the said accused when they had described the incident. Therefore, he was granted anticipatory bail. His case is different from the case of the present applicants.

8. The contention that there was delay in lodging the FIR also does not have any force because the medical evidence does indicate that all the injured had suffered injuries and they were examined on 18/04/2019 itself. Considering all this discussion, no case for anticipatory bail is made out. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)