

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1329 OF 2018**

Nilesh Dattatraya Patil & Anr.

....Applicants.

Vs.

The State of Maharashtra

....Respondent.

Mr. Rohan Surve for the Applicant.

Mr. R.M. Pethe APP, for the Respondent-State.

Mr. Dinesh Adsule for the Respondent No.2.

CORAM : A. S. GADKARI, J.

DATE : 22nd MARCH, 2019.

P.C.:-

By an Order dated 9th July, 2018 the Applicants were granted interim relief. The first information report itself mentions that, the Applicant No.1-Nilesh Patil caught hold the informant and the co-accused Nagesh assaulted with a sword to the informant. That co-accused Dattatray and Sandeep assaulted with iron rods. It is to be noted here that, at the inception of lodgment of crime, the police have thought it fit to apply Section 324 read with Section 34 of the Indian Penal Code only. However, when the informant filed Criminal Writ Petition No. 2164 of 2017, Section 307 of the Indian Penal Code has been added to the present crime.

2 The name of the Applicant No.2-Roshan @ Dinesh Patil is conspicuously silent in the first information report and he has not been attributed with any role in the crime. Even his presence at the scene of the offence is silent.

 In view thereof, the Applicant No.2-Roshan @ Dinesh Patil deserves to be protected by pre-arrest bail.

3 As far as the Applicant No.1 Nilesh Patil is concerned, in view of the specific role attributed to him, this Court is of the opinion that he does not deserve to be protected by pre-arrest bail and therefore, his Application is rejected.

 Hence the following order.

- a) Application of Applicant No.1 Nilesh Patil is rejected.
- b) Application of Applicant No.2 Roshan @ Dinesh Patil for pre-arrest bail is granted.
- c) Interim relief granted by Order dated 9th July, 2018 is hereby confirmed qua Application No.2 Roshan @ Dinesh Patil only. However, condition of attendance of Applicant No. 2 Roshan @ Dinesh Patil before the

Investigating Officer is waived.

- d) Application is partly allowed, in the aforesaid terms.

(A.S. GADKARI, J.)