

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

ANTICIPATORY BAIL APPLICATION NO.1688 OF 2019

Arvind Valmik Nagare & Anr.	 Applicants
versus	
The State of Maharashtra	 Respondent
.....	

- Mr.Sandeep C. Kekane, Advocate for Applicants.
- Mr.Rajan Salvi, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 31st JULY, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.I-48/19 registered with Yeola Police Station, Nashik, under sections 326, 452, 143, 147, 148, 149, 427 of the Indian Penal Code and 37(1), 135 of Maharashtra Police Act.

2. The FIR is lodged by one Shankar Bhagwan Dongre on 26/03/2019. He has stated in the FIR that, in the night between 25/03/2019 and 26/03/2019 two persons entered his house by breaking the door. Both of them had covered their faces. In this

scuffle the informant removed the mask of one of the assailants. He saw that he was Namdeo Wagh from his village. The other person was Yashwant Madhukar Patil. It is further mentioned in the FIR that one more person entered the house with sickle in his hand. According to the first informant, that person was the present Applicant No.2 who was mentioned as Bandu in the FIR. He has stated that either Yashwant or Bandu assaulted him on his back. While his wife was trying to intervene and save him, the Applicant No.1, who was also present, pressed her throat. The other accused Sandip Nangare assaulted the first informant with iron rod on his left foot because of which his foot was fractured. The informant started shouting. Neighbours came there and therefore the assailants ran away from the spot.

3. Heard learned Counsel Mr.Sandeep Kekane for the Applicant and learned APP Mr.Rajan Salvi for the State.
4. Mr.Kekane submitted that the first informant was having civil dispute in respect of some transaction he had

entered into with the accused Yashwant Patil. He therefore submitted that the because of this enmity this false FIR is lodged against all the accused. He further submitted that the first informant was in the habit of filing false complaints and the present FIR is one more such instance of such false complaints. He further submitted that the story in the FIR does not appear to be true, because, initially the accused had entered the house by covering their faces. The FIR mentions that he had removed the cover of only one person and there was no other occasion of removing the masks of other persons. He further submitted that the story is not probable. According to him, all the accused including the present Applicants are implicated falsely because there was enmity between them. He submitted that the Applicants were on interim protection and their further custody is not necessary. They are willing to cooperate with the investigation.

5. Learned APP submitted that the offence is serious and the assailants had entered the house of the first informant by

breaking the door. He submitted that the injuries mentioned in the FIR cannot be described as self inflicted injuries as one of the injuries was on the back. Other injury was suggestive of fracture of foot. Learned Counsel Mr.Kekane also agreed that there was a fracture of right foot. However, he submitted that the particular role of causing that injury was not assigned to the present Applicants.

6. I have considered these submissions. The manner in which the offence has taken place, is very serious. About 4-5 persons had entered the house of the first informant in the midnight by breaking the door. They had entered carrying weapons like sword and sickle. The informant had suffered fracture of his foot. Though the present Applicants are not attributed role of causing the fracture, they were members of the unlawful assembly. The offence is very serious. Injuries are definitely not self inflicted injuries. Only because in the past some false complaints are filed allegedly it does not mean that the present FIR is also false. Everything will have to be decided

during the trial. However, for that purpose collection of evidence is necessary and therefore custodial interrogation of the Applicants is necessary. Considering the seriousness of the offence, necessity of custodial interrogation is made out. Application is therefore rejected.

7. It is needless to mention that all these observations are made only for the decision of this application. The trial Court shall not be influenced by these observations.

(SARANG V. KOTWAL, J.)