

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

ANTICIPATORY BAIL APPLICATION NO.1714 OF 2019

Ramsing Kisansing Dhaniwale & Ors. Applicants
Versus
The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO. 1155 OF 2019**

Mr. Kisansingh Kalyansingh DhaniwaleIntervener.

IN THE MATTER BETWEEN

Ramsing Kisansing Dhaniwale & Ors. Applicants
Versus
The State of Maharashtra Respondent

Mr. Nitesh Mohite I/b. Jaydeep D. Mane for Applicants.

Mr. Ajit V. Alange for Intervener.

Smt. A. A. Takalkar, APP for the State/Respondent.

Mr. Akhtar Babulal Patel, P.C. B.No.641, Sadar Bazar p.stn.,
Solapur, present.

**CORAM : SARANG V. KOTWAL, J.
DATE : 06th SEPTEMBER, 2019**

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. I 540/19 registered with Sadar Bazar Police Station, Solapur, under sections 307, 323, 324, 143, 148,

506 r/w. 149 of the Indian Penal Code and under section 4 r/w. 25 of The Indian Arms Act and under section 37(1)(a) r/w. 135 of the Maharashtra Police Act, 1951.

2. The FIR is lodged by one Kisansingh who is brother of applicant No.1. Applicant Nos.3 and 4 are applicant No.1's sons and applicant no.2 is their relative. It is alleged in the FIR that there was long standing dispute between the informant and the applicants. At the instance of present applicant No.1, raid was conducted in the house of the first informant. After the raid, the incident in question had taken place. It is alleged that, in the evening at around 6.45p.m. on 26/06/2019, after the procedure of raid was over, the applicant Yogesh intercepted the informant's son's motorcycle. The applicant No.1 was shouting there. He was shouting that the informant's son should be killed. At that time, the applicant nos.3 and 4 came there with iron rods. The applicant Yogesh was having sword in his hand and applicant Santosh was having iron rod in his hand. At the same time the applicant No.1 saw the informant and shouted that the informant should be murdered first. At that time, applicant Yogesh gave blow with

sword on the informant's head. Applicant Santosh was about to give another blow with iron rod, at that time, the informant's grandson Rajsingh came there and saved him. In the incident the informant's son Khushwantsingh was trying to save Rajsingh, at that time, the applicant No.2 pushed Khushwantsingh. After that the accused went away. On this basis, the FIR is lodged.

3. Heard Mr. Nitesh Mohite, learned counsel for Applicants, Mr. Ajit V. Alange for Intervener and Smt. A. A. Takalkar, learned APP for the State/Respondent.

4. Learned counsel for the applicant submitted that the injuries suffered by the informant are not grievous. He further submitted that there was a counter FIR in respect of the same incident and, therefore, allegations in the FIR against the applicant is not true. He further submitted that the custodial interrogation of the applicants is not necessary. The learned counsel for the intervener, as well as, learned APP submitted that though injury is described as simple, it was on the head. The offence U/s.307 of IPC is clearly made out. The applicants had no justification to commit any assault on the informant. Learned APP further

submitted that there are six antecedents against the applicant nos.1, 3 and 4.

5. I have considered all these submissions. The allegations do show that the applicant No.1 was shouting that informant should be murdered. After that the applicant Yogesh gave blow of sword on the informant's head and applicant Santosh tried to assault him with iron rod. Thus, intention to assault the informant on his vital part is clearly made out. The allegations are supported by medical certificate in respect of injuries suffered by the first informant. He had suffered one incised wound of dimension 4x2x0.5cm on forehead. Though, it is described as simple injury, he was admitted to the hospital for two days. The injury was caused by sharp weapon on a vital part, therefore, the intention requisite U/s.307 of IPC is clearly made out. Considering the gravity of offence, the applicant nos. 1, 3 and 4 do not deserve protection of anticipatory bail and their custodial interrogation is necessary. However, applicant No.2's role is very minor and he was not involved in the assault on the first informant. He is alleged to have pushed the informant's son. This incident had occurred

simultaneously. Considering this fact, the applicant No.2's role can be separated from those of the others. The applicant No.2 could not have shared any intention with the other accused, however, this will have to be decided during the trial. At this stage, the applicant No.2 has made out a case for protection of anticipatory bail. His custodial interrogation is not necessary.

6. Hence, the following order :

ORDER

- (i) The application of applicant nos.1, 3 and 4 is rejected.
- (ii) In the event of arrest of applicant No.2 in connection with C.R. No. I 540/19 registered with Sadar Bazar Police Station, Solapur, the applicant No.2 is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (iii) Application stands disposed of accordingly.
- (iv) Intervention application also stands disposed of accordingly.

(SARANG V. KOTWAL, J.)