

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

ANTICIPATORY BAIL APPLICATION NO.1898 OF 2019

Lakhan @ Laxman Popat Shinde & Ors. Applicants

versus

The State of Maharashtra Respondent

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- Mr.Viresh V. Purwant, Advocate for Applicants.
- Mr.Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th AUGUST, 2019

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.706/18 registered with Karmala Police Station, Solapur, under sections 307, 324, 323, 504, 506, 143 147, 148, 149 of the Indian Penal Code and 135 of Maharashtra Police Act.

2. The FIR is lodged by one Kailas Madhav Kangude on 07/09/2019. He has stated that, on that day, at 07.45 a.m., the

informant was present near hotel Shambhu Raje. Ashok Gaikwad and Dilip Gaikwad were having tea in the hotel. At that time, 14 accused including present Applicants came there and picked up quarrel with Ashok Gaikwad and Dilip Gaikwad. The Applicant Sandip Shrikushna Gund assaulted Ashok Gaikwad on his back with iron rod. Applicant Lakhan @ Laxman Shinde assaulted Ashok Gaikwad with a Tomy on his face and the Applicant Rahul Kangude gave blow of sword on the forehead of Ashok Gaikwad. The others took part in the assault. Thereafter they all went away.

3. The injured were shifted to hospital. There were three injured from the informant's side, the informant himself, Ashok Gaikwad and Dilip Gaikwad. Ashok Gaikwad and Dilip Gaikwad have suffered very minor injuries. Ashok Gaikwad has suffered six injuries, out of which five injuries were described as simple injuries. Only the one on forehead appears to be a grievous injury. On this basis FIR is lodged.

4. Since filing of the FIR the investigation was carried out and the charge-sheet was filed against the arrested accused. The present Applicants were granted interim anticipatory bail in the Court of the Sessions and therefore they were not arrested.
5. The charge-sheet contains statement of various eyewitnesses namely Balu Bhimrao Salve, Namdev Brahmadev Gund, Maruti Digambar Ghalke, Dattu Kisan Nalawade, Dilip Uddhav Gaikwad and others. All of them have repeated the same story as mentioned in the FIR. The statement of injured Ashok Gaikwad is important. He has also attributed the main role to the accused Rahul Kangude.
6. Heard learned Counsel Mr.Viresh V. Purwant for the Applicant and learned APP Mr.Prashant Jadhav for the State.
7. Learned Counsel Mr.Viresh V. Purwant submitted that the incident had occurred on the spur of moment and there was free fight between those groups. He submitted that majority of

the injuries suffered by the victims are simple injuries. One of them was a grievous injury, that too, is not corroborated by the medical certificate. Therefore the Applicants deserve anticipatory bail.

8. Learned APP submitted that the injured Ashok Gaikwad has suffered serious injury on the forehead and therefore intention to commit his murder is clear. He therefore opposed the application for anticipatory bail.

9. I have considered these submissions. Apart from the witnesses mentioned above, there is important witness Chetan Dharmaraj Rakhunde, who was the hotel owner where the incident had taken place. He has stated that the Applicant Sandip Gund had come to his hotel at 07.45 a.m. Thereafter one Dilip Gaikwad from the informant's group came there. He picked up quarrel with the Applicant Sandip Gund. The quarrel escalated. They started assaulting each other with fists and kick blows. In the meantime, the injured Ashok Gaikwad came to the

hotel. The Applicant Sandip Gund was kicked by him. Thereafter the Applicant Lakhan Shinde and Rahul Kangude came there and assaulted Ashok Gaikwad with rods and sticks.

10. This shows that the incident had occurred on the spur of moment. There was no premeditation. Therefore role of the present Applicant can be separated. Injuries attributed to the informant due to the assault committed by Sandip Gund and Lakhan Shinde are simple injuries. Therefore their role can be separated. However, the main role is attributed to the Applicant Rahul Kangude, who is alleged to have given blow of sword on the forehead Ashok Gaikwad. Therefore I am not inclined to grant protection to Applicant Rahul Kangude. But other two Applicants can be protected on anticipatory bail. Hence, the following order :

ORDER

- (i) Application of Applicant No.3 Rahul Arun Kangude is rejected.

- (ii) In the event of their arrest in connection with C.R.No.706/18 registered with Karmala Police Station, Solapur, the Applicant No.1 Lakhan @ Laxman Popat Shinde and Applicant No.2 Sandip Shrikrushna Gund are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or two sureties each, in the like amount.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)