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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 2152 OF 2018**

1. Usha Padmakar Ghante
2. Madhuri Alias Madhavi Sanjit Tak
3. Shobha Kishor Walmiki
4. Mayuri Sujit Tak

....Applicants

V/s.

The State of Maharashtra

.....Respondent

Mr. Harshad Nimbalkar a/w Hrishi Ghorpade i/b Satyam Nimbalkar
advocate for the applicants
Mr. Jay. S. Patil i/b Mr. Vikrant Phatate for the intervener
Mr. A. A. Palkar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 23, 2019.

P.C.

Heard the learned counsel for the applicants and the learned
APP.

2 In Crime No. 308/2018 registered with Daund Police Station
for offence punishable under Sections 302, 341, 143, 147, 148, 149,

323, 504, 506 of the Indian Penal Code and Sections 4, 25, 27 of the Arms Act, applicants are seeking pre-arrest bail.

3 The prosecution case is complainant Meena alleged that on 03/05/2018 while she was returning from temple in the evening at around 8.00 p.m., applicants alongiwth co-accused assaulted her husband Vinod with sword, iron pipe, sticks. In the said offence, complainant Meena also claimed to have assaulted by the applicants herein by fist blows. According to the complainant, the incident was witnessed by her mother Malan Shinde, her sister Usha Waghmare. Investigating agency has already filed charge-sheet in the matter and the application moved by the present applicants seeking pre-arrest bail came to be rejected by the learned Sessions Court, Baramati on the ground that present applicants were present at the scene of incident of assault. It is also observed that applicants were assaulting the complainant when she tried to save deceased. It is further observed that applicants, since are not charge-sheeted as they are absconding, it will be inappropriate to grant bail.

4 The learned APP submits that applicants are specifically mentioned to have been present on the spot of the incident when the offence took place. The offence is outcome of enmity between the complainant and applicants. That being so, there is sufficient material to infer the intention on the part of the applicants as Section 149 of the Indian Penal Code is invoked. As such, application is liable to be rejected.

5 Considered rival submissions.

6 As far as applicant no. 3 Shobha is concerned, F.I.R. does not refer to any specific role to her in the commission of crime in question much less the alleged assault on complainant Meena.

7 The statement of Usha, sister of the complainant named applicant no. 3 as one of the co-accused alleging that applicants were also assaulting the deceased Vinod and the complainant Meena. Statement of Usha was recorded after two days of the incident in question. Similar appears to be the statement of Malan,

the other eye witness.

8 Apart from above, husbands of applicant no. 2 and 4 are also named as accused in the crime in question.

9 In the wake of above, it is noticed that no specific role is attributed to the applicants who are women, the claim in the crime of assaulting the complainant or deceased by use of any weapon. The name of applicants are surfaced in the supplementary statement of assaulting the deceased that too with no specific attributions, in my opinion, custodial interrogation is not warranted. Hence, following order:

(A) In the event of arrest of applicants in Crime No. 308/2018 registered with Daund Police Station, applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount.

(B) Applicants shall attend the Investigating Officer on 04/02/2019, 06/02/2019, 08/02/2019, 12/02/2019 and 15/02/2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed by the Investigating Officer.

(C) Applicants shall not influence witnesses or tamper with evidence.

10 Application stands disposed of.

[NITIN W. SAMBRE, J.]