IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2 OF 2020

1) Saurabh Suryakant @ Suresh Bhagwat;
2) Prashant Chandrakant Bhagwat .. Applicants

Vs.

State of Maharashtra .. Respondent

.....

Mr.Sanjeev Kadam i/b. Mr.Rushikesh G. Patil, Advocate for the Applicants.

Mr.H.J. Dedhia, APP for the Respondent – State.

PI S.S. Patil, Talegaon MIDC Police Station, Pune, present.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 08, 2020.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.153 of 2019, registered with Talegaon M.I.D.C. Police Station, Pimpri Chinchwad, for the offencs punishable under Sections 326, 325, 323, 504 and 506 read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged on 17th November, 2019. According to the complainant, in the

year 2001, land was sold to Nirmala Bhagwat. The balance consideration was not paid. On 16th November, 2019, Swapnil Bhagwat and applicants had assaulted the complainant. Swapnil Bhagwat assaulted by wooden log. Saurabh (Applicant no.1) assaulted on back and Prashant Bhagwat (applicant no.2) had assaulted by wooden log above the eyebrow. It is also alleged that all the accused had also assaulted the complainant by fist and kick blows.

3 During the course of investigation, Swapnil Bhagwat was arrested. He preferred an application for anticipatory bail before the Sessions Court, which has been rejected.

4 Learned counsel for the applicants submits that the story put up by the complainant itself is under the shadow of doubt. The lease agreement was executed in 2001. It is difficult to accept that balance consideration was not paid. First Information Report ("FIR", for short) was lodged 24 hours after the incident. The main role has been attributed to Swapnil Bhagwat who has been arrested and granted bail. It is further submitted that the custodial interrogation of the applicant is not necessary. The allegations are vague. There was no common intention. The

offence under Section 326 of IPC is not made out. There was no injury in the nature of grievous hurt.

5 Learned APP submitted that the complainant had suffered three injuries. On instructions it is submitted that injured was hospitalized for a period of about three weeks. It is submitted that specific overtact is attributed to all the applicants. *Prima facie*, the offences are disclosed. This is not the stage to segregate the role assigned to the accused. All the assailants had assaulted the complainant by weapons.

6 I have perused the FIR. Specific overtact has been attributed to the applicants. The complainant had stated that accused no.1 Swapnil Bhagwat had assaulted on his leg by wooden log, which has resulted in fracture. Applicant no.1 has assaulted on his back by wooden log and applicant no.3 also assaulted to him above the eyebrow. The contention of the applicants is that the injury do not spell out fracture, and, therefore, in the absence of grievous hurt, Section 326 would not be attracted. Primarily, it is apparent that the injuries are in consonance with the role attributed to the applicants. The version of the complaint is corroborated by injury certificate. This is not

the stage to evaluate what offence is made out. Assuming that Section 326 of IPC, is not attributed, Section 324 of IPC would be attracted which is a non bailable offence. In the light of the overtact attributed to the applicant, no case for grant of anticipatory bail is made out. Hence, anticipatory bail application stands rejected.

(**PRAKASH D. NAIK, J.)**