

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

ANTICIPATORY BAIL APPLICATION NO.270 OF 2021

Digambar Bhau Dhule Applicant
Versus
The State of Maharashtra Respondent

Mr. Vaibhav P. Punekar, Advocate for the Applicant.
Mr. S.H. Yadav, APP for the Respondent-State.
API Govind Patil, Karjat Police Station, District – Raigad.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.111/2020 registered at Karjat Police Station, District - Raigad on 26.5.2020 under Section 307 and other Sections of the Indian Penal Code.

2. Heard Shri Vaibhav Punekar, learned Counsel for the Applicant and Shri S.H. Yadav, learned APP for the State.

3. The FIR is lodged by one Rohidas Parshuram Dhule in respect of an incident dated 25.5.2020, which had taken place at 5:30 p.m. He was in his house. At that time, he heard

some noise. So he went out. He saw that there was some quarrel which was going on in front of Ravindra Dhule's house. He saw that his nephews Milind and Nitin had fallen on the road. They were being assaulted by Raghunath, Kavishwar and Kashinath with sword. The informant tried to intervene, but, Shantaram gave a blow on his hand. The informant's other relatives came there. At that time, the accused Shantaram called his group members. It is further alleged that thereafter few other accused including the present Applicant came there. The Applicant was carrying a stick. In the FIR it is mentioned that the Applicant gave a blow with stick on the shoulder of Ketan Dhule. There are other allegations against other accused.

4. Learned Counsel for the Applicant submitted that the injury which is attributed to the present Applicant is simple injury. He has not assaulted on vital part of any of the injured. He submitted that the Applicant's group had lodged their own FIR vide C.R. No.112/2020, at the same police station, on the same day. The FIR is lodged under Section 326 and other

Sections of IPC. He submitted that from Applicant's side many persons suffered grievous injuries. Therefore, the FIR lodged against the Applicant's group is not true.

5. Learned A.P.P. opposed this application and he relied on the medical certificates issued in this case.

6. I have perused those medical certificates. There are certificates issued by Aadhar Multispeciality Hospital, Old Panvel and the certificates issued by Rural Hospital, Kashele. These certificates show that only Milind and Nitin have suffered some serious injuries. According to the certificate issued by Rural Hospital, Kashele, Milind had suffered one grievous injury on his left wrist. He has suffered two simple injuries on his head and one simple injury on forearm. Ketan's injury on the back is described as a simple injury. All other injured have suffered simple injuries. Nitin has suffered one simple injury on head.

7. I have considered all these submissions. Admittedly, there is complaint and cross-complaint. Learned

A.P.P., on instructions, fairly makes a statement that even the Applicant's group has suffered grievous injuries caused by sword. Therefore, obviously the FIR against the present Applicant is not depicting the complete truth.

8. In any case in the FIR against the Applicant, the incident is divided into two parts. In the first part, Milind and Nitin were assaulted. Nitin has suffered simple injuries. In the second part of the incident, other accused were called by Shantaram. Thereafter the Applicant gave a blow with a stick on the Ketan's shoulder. Therefore, the Applicant could not have shared any common object of causing grievous injury on Milind. He is only involved in the later part of the incident. All the injuries caused in the second part are simple. Therefore, at this stage, it is difficult to observe that the Applicant was a member of an unlawful assembly whose object was to commit offence of attempt to commit murder or cause grievous injury.

9. Considering the lesser role attributed to him and also taking into account the fact that the Applicant's group has suffered grievous injuries, the Applicant's custodial

interrogation is not required and he can be protected by an order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.111/2020 registered at Karjat Police Station, District – Raigad, the applicant 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) Anticipatory Bail Application stands disposed of accordingly.

Digitally
signed by
Pradeepkumar
P. Deshmane
Date:
2021.02.05
12:42:22
+0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)