

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2482 OF 2019

Nagesh Shankar Bhosale	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1979 OF 2019

Kunal Shivaji Mhatre	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.2170 OF 2019

Tushar Dinkar Mhatre	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Shailesh Chavan with Sonam Singh for applicant in ABA No.2482/2019.

Mr.Ammar Nizami i/by Mohammed Umar Kazi for applicants in ABA Nos.1979/2019 and 2170/2019.

Mr.Y.N.Nakhwa, APP for State.

Mr.PM.Shinde, HC, Kalyan Taluka Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th March 2021

PC :

1. The applicants are apprehending arrest in CR No.274 of 2019 registered with Kalyan Taluka Police Station for offences under Sections 307, 326, 324, 323, 427, 504, 506, 143, 144, 147, 148, 149 of Indian Penal Code, under Sections 4 and 25 of Arms Act and under Sections 37(1)(3), 135 of Maharashtra Police Act.

2. The FIR was registered by Umesh Mhaskar on 16th May 2019. It is alleged that the applicants and the co-accused were armed with dangerous weapons and they have assaulted the injured person. The applicant Kunal Mhatre was armed with iron rod. He gave blow of iron rod to Umesh and Vivek. However, both of them managed to avoid it. Nagesh Bhosale was also armed with iron rod and he had assaulted Pravin Ithape on his head. The injured sustained simple injury. Tushar Mhatre was attributed role of assault by fist and kick blows. He had assaulted Akshay.

3. Learned advocate for applicants submitted that the applicants have been falsely implicated in this case. The FIR has been registered on account of rivalry. The role attributed to the applicants is vague. No injury is caused by alleged blow given by Kunal Mhatre. Pravin Ithape had sustained simple injury. Tushar is attributed role of assault by fist blows. The applicants were granted interim protection and they have complied the directions of reporting. Cross case was registered against opponents vide CR No.275 of 2019 for offences under Sections 307, 144, 147, 148, 149, 427, 506 of IPC. The said FIR was lodged by Rajan Kene.

4. Learned APP submitted that the applicants had participated in the assault. The applicant Kunal and Nagesh were armed with iron rod. The overt act has been attributed to all the applicants. The offence is of serious nature. Nagesh is having one case against him. Two cases were registered against Kunal prior to registration of the present FIR and during pendency of this case while interim protection was in operation one more FIR has been registered against

him vide CR No.409 of 2019 with Hill Line Police Station for offence under Sections 326, 143, 147, 148, 149, 506(2), 504, 336 of IPC. Merely because cross case is registered, no relief can be granted to them,.

5. Learned advocate for applicants has relied upon orders passed by Sessions Court granting anticipatory bail to Aakash Bhoir, Rajan Kene and Swapnil Gundere. It is submitted that even they were attributed similar role.

6. Learned APP, however, urged that considering the antecedents of the applicants, no relief be granted to them.

7. On perusal of the FIR it is apparent that Nagesh Bhosale had allegedly assaulted Pravin Ithape and the injured had sustained similar injury. Tushar Mhatre was not armed with any weapon but he assaulted by fist and blows. Kunal Mhatre was assaulted by iron rod. Some of the accused are granted anticipatory bail. There is cross case. However, it is pertinent to note that as far as Kunal Mhatre is concerned, according to the prosecution, he was armed with iron rod. Although it is the case of prosecution that he tried to assault Umesh and Vivek and the said witnesses have avoided the blow. There were two cases registered against him in the past. He was granted interim protection by this Court on 9th September 2019. During the pendency of this application and while the interim order was in operation, he is involved in one more offence. Thus, against him two cases were registered prior to this case and one case is registered after subject FIR. The relief u/s.438 cannot be granted to him. However, considering the circumstances as stated above, the

application by Nagesh and Tushar can be allowed. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application No.1979 of 2019 is rejected;
- (ii) Anticipatory Bail Application Nos.2482 of 2019 and 2170 of 2019 are allowed and disposed of;
- (iii) In the event of arrest of applicants Tushar Mhatre and Nagesh Bhosale in connection with CR No. 274 of 2019 registered with Kalyan Taluka Police Station, they be released on bail on their executing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iv) The applicants shall not tamper with evidence;
- (v) The applicants shall attend Investigating Officer as and when called for till filing of charge sheet.

8. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

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