

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1215 OF 2020

1. Nilesh s/o Dnyaneshwar Desale
 2. Sagar s/o Gokul Koli
 3. Yogesh s/o Tukaram Patil
 4. Bhushan Dnyaneshwar Patil
 5. Shubam Dnyaneshwar Patil
- ... Applicants**

Versus

The State of Maharashtra

... Respondents

...

WITH

ANTICIPATORY BAIL APPLICATION NO.667 OF 2020

1. Sanjay Bhikan Patil
 2. Kailash Bhikan Patil
 3. Sharad Bhikan Patil
 4. Bhavesh Sanjay Patil
 5. Amol Nana Patil
 6. Samadhan Nana Patil
 7. Smbhaji Ananda Patil
 8. Narendra Arun Patil
- ... Applicants**

Versus

The State of Maharashtra

... Respondents

...

Mr. M. V. Salunke, Advocate for applicants in ABA/1215/2020.
Mr. Kshitij H. Surve, Advocate for applicants in ABA/667/2020
Mr. N. T. Bhagat, APP for the respondent – State in both the cases.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 10.01.2022

Pronounced on : 28.01.2022

ORDER :-

. Both the applications are by the accused persons, who have lodged first information report against each other. For the sake of convenience only these applications are decided together.

2. The applicants in ABA No.1215 of 2020 are apprehending their arrest in connection with Crime No.171 of 2020 registered with Bhadgaon Police Station, Dist. Jalgaon for the offence punishable under Sections 143, 147, 148, 149, 307, 325, 324, 188 of Indian Penal Code and under Section 135 of the Maharashtra Police Act, whereas the applicants in Anticipatory Bail Application No.667 of 2020 are apprehending their arrest in connection with Crime No.170 of 2020 registered with the same police station for the offence punishable under Sections 143, 147, 148, 149, 307, 324, 325, 323, 504, 506, 188 of Indian Penal Code and under Section 135 of the Maharashtra Police Act.

3. Heard learned Advocate Mr. M. V. Salunke for the applicant in ABA/1215/2020, learned Advocate Mr. K. H. Surve for the applicant in ABA/667/2020 and learned APP Mr. N. T. Bhagat for the respondent – State in both the cases. In order to cut short, it can be said that all of them have made submissions in support of their respective contentions.

4. Firstly dealing with ABA No.1215 of 2020 it can be seen that the said FIR has been lodged by one Sanjay Bhikan Patil, who is applicant No.1 in ABA No.667/2020. That FIR has been lodged on 26.05.2020 and registered on 28.05.2020 at about 11.40 hours. It is subsequent to the FIR lodged by present applicant No.1 in Crime No.170 of 2020. In this FIR, it has been contended that the incident took place around 11.00 p.m. on 25.05.2020. When the informant and other persons who were his brother and friends were sitting, at that time, the present applicants and co-accused came armed with sticks and lathi's. Present applicant No.1 had axe in his hands and applicant No.2 was holding sword. Co-accused Naval was holding iron rod. It is then stated that the informant was assaulted by applicant Nos.1 and 2 with Axe and Sword. The other witnesses were also assaulted and the brother of the informant had received injuries to his head, both arms, back and stomach, whereas witness Ganpat Koli received injury to his head. All were then taken to Apex Hospital for treatment. It is also to be noted from the police papers that the weapons used in commission of crime appear to have been seized from the accused, who were arrested i.e. Dnyaneshwar Patil and Naval Koli. Nothing is required to be seized from the present applicants.

5. The objection has been taken to the application on the ground

that the informants mother was Sarpanch of the village and the accused persons were her political rivals. There were disputes between those two groups and there are offences registered with the same police station. Three offences have been mentioned, however, the details of the same as to who had lodged and who are exactly the accused persons is not clarified. It is then stated that many accused persons are still absconding. As regards applicant No.1 is concerned, it is stated that he was detained for one year through MPDA Proposal No.01 of 2016 and after the said period was over, he has again committed the offences. So also, again possibility of commission of crime against sand cannot be ruled out. Further, taking into consideration political rivalry also, there is possibility. On this point it can be said that the period of detention is over. So, that cannot be the ground to deny him the bail. Even for arrest of the absconding other accused persons, it cannot be said that there should be restriction on the liberty of the applicants. Interesting point to be noted is that when the other FIR has been lodged by applicant No.1 herein and the co-applicants in this case would be the eye witness in that case, the prosecution has not come with the case that the informant therein and the witnesses are not cooperating. Therefore, how far it can be taken that they were absconding is a question. Interim relief was granted to the applicants in ABA No.667 of 2020. In ABA No.1215 of

2020 also, interim relief has been granted on 24.12.2020 and the prosecution has not come with the case that they have not abided by any conditions those were imposed. Therefore, definitely case is made out to confirm the interim protection that has been granted to the present applicants.

6. Now, turning towards the applicants in ABA No.667 of 2020, similar observations would be applicable, but only difference is that this crime came to be registered first i.e. at about 00.03 hours on 27.05.2020. There is no much delay in lodging the report. It is also then submitted that the accused persons with applicants had used axe, rod, sword. Those weapons are also stated to be recovered. Therefore, they have also made out a case to confirm the interim relief that was granted by this Court to them on 10.08.2020.

7. It will not be out of place to mention here that it appears that both the parties have resolved their dispute and they have filed Criminal Application No.1165 of 2020 for quashing both the FIR's and the said petition is still pending before the Division Bench of this Court. It appears from the documents those have been produced that Mahatma Gandhi Tanta Mukta Gaon Samiti had intervened and the settlement is stated to have arrived at. It will not be out of place to observe that the

purpose for which such samiti's were appointed by Government is different. When it comes to the offence in respect of body, that too Section 307, the Samiti should abstain itself from interfering. It is the offence against the State and not against the persons. Anybody cannot, form an unlawful assembly and with the common object of it and assault a person to the extent that there was a possibility of murder. In some given case with appropriate dispute, this Court may deal with the scope and the authority of such Samiti, but certainly such acts on the part of the Samiti are required to be deprecated. Such Samiti's cannot assume the powers of a Court and, in fact, as regards Section 307 of Indian Penal Code is concerned, even the Court cannot compound the offence in view of Section 320 of the Code of Criminal Procedure. It is only in certain circumstances, this Court can exercise its powers under Section 482 of the Code of Criminal Procedure together with Article 226 and 227 of the Constitution of India. There are parameters laid down for even to this Court to accept such settlements and quash the FIR's. Act of maintaining peace in the village is different, which may be taken up by Samiti, but it should not be to the extent of arriving at a settlement involving the offences against the State. With these observations, the earlier orders passed by this Court granting interim relief to the applicants deserve to be confirmed. Accordingly, the following order is

passed :-

ORDER

- i) Both the applications stand allowed.
- ii) The ad-interim protection, granted by this Court earlier to the applicants in ABA No.1215 of 2020 on 24.12.2021 is hereby confirmed and made absolute. In other words, in the event of arrest of applicants in ABA No.1215 of 2020 viz. 1) Nilesh s/o Dnyaneshwar Desale, 2) Sagar s/o Gokul Koli, 3) Yogesh s/o Tukaram Patil, 4) Bhushan Dnyaneshwar Patil and 5) Shubam Dnyaneshwar Patil in connection with Crime No.171 of 2020 registered with Bhadgaon Police Station, Dist. Jalgaon for the offences punishable under Sections 143, 147, 148, 149, 307, 325, 324, 188 of Indian Penal Code and under Section 135 of the Maharashtra Police Act, they be released on P. R. of Rs.15,000/- each and furnishing solvent surety each in the like amount.
- iii) The ad-interim protection, granted by this Court earlier to the applicants in ABA No.667 of 2020 on 10.08.2021 is hereby confirmed and made absolute. In other words, in the event of arrest of applicants in ABA No.667 of 2020 viz. 1) Sanjay Bhikan Patil, 2) Kailash Bhikan Patil, 3) Sharad Bhikan Patil, 4) Bhavesh Sanjay Patil, 5) Amol Nana Patil, 6) Samadhan Nana Patil, 7) Smbhaji Ananda Patil and 8) Narendra

Arun Patil in connection with Crime No.170 of 2020 registered with Bhadgaon Police Station, Dist. Jalgaon for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 325, 323, 504, 506, 188 of Indian Penal Code and under Section 135 of the Maharashtra Police Act, they be released on P. R. and S.B. of Rs.15,000/- each.

iv) The applicants shall not tamper with the evidence of the prosecution in any manner.

v) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm