



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 10 OF 2018

1. Nilkanth s/o. Tryanmak Patil,
2. Dinesh s/o. Nilkanth Patil,
3. Vilas s/o. Nilkanth Patil ..Applicants

Vs.

The State of Maharashtra
and anr. ..Respondents

Mr.K.C.Sant, Advocate for applicants

Mr.S.B.Joshi, APP for respondent

CORAM : SANGITRAO S. PATIL, J.

DATE : JANUARY 31, 2018

PER COURT

Heard the learned Counsel for the applicants
and the learned APP for the respondents.

2. The applicants have sought the relief of pre-arrest bail in connection with Crime No.266 of 2017 registered in Police Station, Amalner, Dist.Jalgaon for the offences punishable under Sections 326, 324, 323, 452, 504, 506 and Section 34 of the Indian Penal Code.

3. It is alleged that on 21.12.2017 at about 8.30 p.m., one Bhila Gangaram Patil and the present applicants were quarreling with one Umesh Patil, who was residing near the house of the informant - Dnyaneshwar Dashrath Patil. Bhila Patil was holding a scythe and the applicants were holding sticks. They were hurling abuses against Umesh Patil. Bhila Patil and the applicants beat the mother and wife of Umesh Patil by fists, kicks and also by sticks. The informant intervened and tried to pacify the quarrel. At that time, Bhila Patil gave a scythe blow on the left leg of the informant and caused him serious injury. He was admitted in a private hospital of Dr.Anil Shinde for treatment. He had sustained fracture of calcaneum bone. He lodged the FIR against Bhila Patil and the applicants on 30.12.2017 for the above-mentioned offences.

4. The learned Counsel for the applicants submits that there is inordinate delay in lodging the FIR. According to him, a quarrel took place between

Bhila Patil and Umesh Patil in respect of which Umesh Patil had lodged an FIR in the Police Station on the same day of the incident. In that FIR, he had not at all referred to the applicants as the persons involved in the incident. He submits that this fact itself *prima facie* shows that the applicants have been subsequently implicated in the crime though they were not actually present to participate in the incident. He, therefore, prays that the applicants may be extended the relief of pre-arrest bail.

5. The learned APP strongly opposed the application. He produced the papers of investigation. He submits that the applicants participated in the incident in question. The informant has sustained grievous hurt as seen from the injury certificate issued by Dr. Anil Shinde. The informant lodged the report after he recovered from his injury. He submits that the sticks allegedly used at the time of the incident are required to be seized. He submits that considering the serious nature of the offences, the

applicants may not be extended the relief of pre-arrest bail.

6. As seen from the contents of the FIR, the alleged quarrel, was going on between Umesh Patil on one hand and Bhila Patil on the other, in the night of the incident at about 8.30 hours. If Umesh Patil had any grudge to make against the applicants, he would not have forgotten to mention their names in the report that was filed by him in the Police Station in respect of the said incident in the night intervening 21.12.2017 and 22.12.2017. The copy of the FIR filed by him does not at all refer to the presence of the applicants at the time of the alleged quarrel. He has made allegations against Bhila Patil only, as the person who hurled abuses in front of his house and further beat his mother, wife and himself by fists and kicks. The present informant has made specific allegations against Bhila Patil only, of having given scythe blow on his left leg, which resulted into a serious injury for which he was

required to be admitted in the hospital. Thus, the FIR does not show that the applicants beat the informant by means of sticks. In the circumstances, the delay of eight days in filing the report implicating the present applicants assumes importance. The absence of the names of the applicants in the FIR lodged by Umesh Patil coupled with the delay in filing the report by the present informant would entitle the applicants to seek the relief of pre-arrest bail.

7. It is made clear that the above observations are prima facie in nature and shall not influence any other proceedings arising out of the above-numbered crime.

8. In the result, I pass the following order.

(A) Criminal Application is allowed.

(B) In the event of arrest of the applicants in connection with in connection with Crime No.266 of 2017 registered in Police Station, Amalner,

Dist.Jalgaon for the offences punishable under Sections 326, 324, 323, 452, 504, 506 and Section 34 of the Indian Penal Code, they shall be released on bail on their executing bail bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount, on the following conditions :-

- (i) that, the applicants shall make themselves available for the purpose of investigation as and when called upon by the Investigating Officer under a written intimation or under any permissible electronic mode of communication, until filing of the Charge Sheet.
- (ii) The applicants shall not tamper with the prosecution evidence in any manner.
- (C) The application is accordingly disposed of.

[SANGITRAO S. PATIL, J.]

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