

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

ANTICIPATORY BAIL APPLICATION NO.1447 OF 2018

Mr. Pravin Suresh Patil
alias Pappu & Ors. ... Applicants
Vs
The State of Maharashtra ... Respondents

...

Mr. Manish Jain I/by S.M.Jain & Associates for the Applicants.
Ms. P.P.Shinde, APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE J.

DATE : 20 DECEMBER, 2018

P.C. :

Applicants are apprehending arrest in Crime No.156 of 2008 registered under Sections 326, 324, 323, 504, 506, 143, 147, 148, 149 of the IPC at Wada Police Station, Palghar. The alleged incident had taken place on 18th June, 2018 at 9 a.m. There were disputes and differences between the complainant on one hand and the applicants on the other hand on account of user of adjoining lands for mining by the applicants. Litigation on this count is pending between the parties. It is alleged that the applicants forcibly restrained and attempted to evict complainant and his family

members from the disputed land and in the course of bald attempt, assaulted the complainant and his family members with sticks and iron rods. Report was filed by one Vinod Shivram Chaudhary and on his expression, the subject crime was registered. In the report, he alleged and attributed vital role to Rupesh Ankush Patil (Applicant No.3) and Nilesh Lahu Patil (Applicant No.6).

2 The learned counsel appearing for the applicants submitted that applicant nos.3 and 6 have surrendered to the police. It is submitted that Nilesh Lahu Patil (Applicant NO.6) is released on bail, however, Rupesh (Applicant NO.3) is still in custody. The learned counsel further submitted that in the complaint no role is attributed to the applicant nos.1,2,4,5 and 7. He, however, admits presence of the applicant nos.3 and 6. It is his submission that the applicant no.5 is senior citizen whereas applicant nos.1 and 2 are in service. He submits that the applicant nos.4 and 5 were not present on the spot of the incident. His main contention is that, entire role has been attributed to the applicant nos.3 and 6 and since nothing is

alleged against the applicant nos.1,2,4,5 and 7, they may be released on bail.

3 The learned APP Mrs. Shinde has invited my attention to statement of injured Ms. Vijaya V. Chavan recorded on 25.6.2018. She has also brought to my notice five injury certificates issued by Rural Hospital, Wada. It is certified that Vijaya Chavan (injured) was examined on 18.6.2018 (date of the incident) at 11.30 a.m. who had suffered grievous injury. The another certificate of injured Vinod shows he had also suffered grievous hurt. The other three certificates certify injuries sustained by Surekha, Vanita, Jagdish which were of simple in nature. On the basis of the statement of Vijaya Chaudhary and injury certificates, it is submitted by the learned APP that precise role has been attributed by the injured to the applicant nos.1,2,4 and 5.

4 As against this, it is submitted by the learned counsel for the applicants that this statement was recorded 7 days after the

incident i.e. on 25.6.2018 and, therefore, it is afterthought. It appears injured Vijaya was admitted in the private hospital at Wada on 18.6.2018 and discharged on 21.6.2018. She had undergone surgery. It is submitted that since she was admitted in the hospital and had undergone surgery, her statement could not be recorded immediately. In my view, explanation for the delay in recording the statement needs to be accepted in the given set of facts and circumstances.

5 Thus, after perusing the statement of Vijaya (Injured) and nature of the injuries suffered by at-least two persons being grievous in nature, i.e., fracture, I am not inclined to grant this application. It cannot be overlooked that initially application was filed on behalf of all the accused but for the reasons known to the applicant nos.3 and 6, they surrendered to the police.

6 It is submitted by the applicant that accused no.5 being senior citizen and looking at the role attributed to him, he deserves

to be granted pre-arrest bail.

7 After perusing the material on record and looking at the role attributed to the applicant no.5, who is senior citizen, I am inclined to grant anticipatory bail to Lahu Ragho Patil (Applicant No.5).

8 So far as the other applicants are concerned, there is material against them. It may also be stated that the applicant no.7 had threatened the complainant and his family and asked them to refrain themselves from cultivating disputed lands or else to face dire consequences. In my view, applicants' custody will further the investigation effectively.

9 In view of the material collected during the course of the investigation and particularly, statement of the injured Vijaya, I reject the application of applicant nos.1,2,4 and 7 are concerned. Since the applicant nos.3 and 6 have surrendered to the police, I

deem it appropriate not to pass any order as against them. The name of the applicant nos.3 and 6 is directed to be deleted from this application. Necessary amendment will be carried out forthwith.

10 Hence, the following order:

- (1) Anticipatory bail is granted to Applicant No.5.
- (2) In the event of arrest of applicant no.5, he is directed to be released on bail on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (3) Application of Applicant Nos.1,2,4 and 7 is rejected.
- (4) Applicant No.5 is directed to attend the police station as and when called and co-operate with Investigating Officer.
- (5) Applicant No.5 shall not tamper with the prosecution evidence and/or influence prosecution witnesses.

(SANDEEP K. SHINDE, J.)