

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3676 OF 2015
[Balasaheb Gorakh Nimase and ors. Vs The State of Maharashtra]

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri M.S.Kulkarni, advocate for applicants
Smt. Pratibha Bharad, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.
DATED : 5th AUGUST, 2015

PER COURT :-

- 1] Heard Shri M.S.Kulkarni, learned counsel for applicants and Smt. Pratibha Bharad, learned Additional Public Prosecutor for the respondent/State.
- 2] By the present application, the applicants are seeking anticipatory bail, since they are apprehending their arrest, in connection with Crime No.145 of 2015, registered with MIDC Police Station, Ahmednagar, for the offences punishable under Sections 394, 504, 506 r/w 34 of the Indian Penal Code.
- 3] The first information report is lodged by Shobha Gokuldas Nimase against the present applicants, who are brothers and their father Gokul Nimase. From the first information report itself, it is clear that the first informant and the present applicants are close relatives and dispute is pending in between them. In fact, cross complaint is also

filed against the complainant side from the side of the accused persons.

According to the first information report, the present applicant no.2 gave iron pipe blow to the first informant; whereas applicant no.1 has given fist and kick blows.

In so far as offence punishable under Section 394 of the Indian Penal Code is concerned, there is no iota of allegations against the applicants. All the allegations are against their father Gokul. It is reported that Gokul was arrested and is already released on bail by the learned trial court.

4] Presently offence is not registered for the offences punishable under Sections either 323, 324 or 326. From the first information report itself, it is crystal clear that role attributed to applicant no.1-Balasaheb is that he has give fist blows.

In so far as iron pipe blow by applicant no.2-Sandip is concerned, learned Additional Public Prosecutor has submitted that the said pipe is already seized from the site of occurrence itself.

5] In view of the aforesaid and looking to the fact that, no overt act is attributed to any of the present applicants in respect of the offence punishable under Section 394 of the Indian Penal Code, this is a fit case wherein the court should exercise discretion in favour of the applicants. That leads me to pass following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant No.1-Balasaheb Gorakh
Nimse and applicant no.2-Sandip Gorakh

Nimse, be released on anticipatory bail, in the event of their arrest, in connection with Crime No.145 of 2015, registered with MIDC Police Station, Ahmednagar, for the offences punishable under Sections 394, 504, 506 r/w 34 of the Indian Penal Code, on they each executing P.R. bond of Rs.5,000/- with one solvent surety of like amount by both of them.

(iii) Application is disposed of.

(V.M.DESHPANDE, J.)

dbm/crap3676.15