

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

CRIMINAL APPLICATION NO. 6060 OF 2015

SUBHASH S/O KASHINATH AKAMAR AND ANR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sudhir K. Chavan.
APP for Respondent : Mr. U. S. Mote.
...

CORAM : **INDIRA K. JAIN, J.**

DATE : 08th December, 2015.

ORAL ORDER:

. Here is an application for pre-arrest bail in Crime No.95 of 2015 registered at Sengaon Police Station, District Hingoli for the offences punishable under Sections 326, 447, 504 and 506 read with 34 of the Indian Penal Code.

2 Heard Mr. Sudhir K. Chavan, learned counsel for Applicants and Mr. U. S. Mote, learned APP for Respondent / State. Perused papers of investigation.

3 Complainant Rudraappa Gangaramappa is resident of Pankanergaon, Taluka Sengaon, District Hingoli. On 24th October,

2015 he lodged report alleging therein that on 23rd June, 2015 when Complainant was cultivating his land Applicants obstructed and abused him. Applicant No.1 assaulted the Complainant with back side of hoe on left and right leg. Applicant No.2 assaulted with kicks and fists and pressed his neck. In the meantime other co-Accused came there. They also abused and assaulted Complainant with kicks and fists. Neighbourers intervened and rescued the quarrel. Then report of incident was lodged to Police Station.

4 Learned counsel for Applicants submitted that in view of dispute over the land deliberately false FIR came to be lodged against Applicants with a view to wreck vengeance. Learned counsel submits that FIR is belated and that speaks for itself that involvement of Applicants in alleged incident is doubtful. In this background learned counsel prays to grant anticipatory bail.

5 Per contra learned APP strongly resisted the application. It is submitted that FIR makes out a *prima-facie* involvement of Applicants. Eye witnesses have supported the allegations in FIR and injury certificate shows that Complainant had sustained grievous injury on the right knee. Learned APP submitted that weapon is yet to be seized and custodial interrogation of Applicants is necessary. On the

basis of material collected during investigation learned APP prays to reject the application.

6 It is apparent from FIR that there is dispute between Complainant and Applicants in respect of ownership of agricultural land. Incident occurred on 23rd June, 2015. FIR was lodged on 24th October, 2015 i.e. after four months of incident. Medical certificate shows that Complainant sustained a grievous injury on right knee joint and other simple injuries.

7 On going through the FIR, statements of witnesses, medical certificate and considering previous dispute between parties in respect of ownership of land and also four months delay in lodging FIR this Court is inclined to exercise judicial discretion. Hence the following order –

ORDER

- I. Criminal Application No.6060 of 2015 is allowed.
- II. In the event of arrest of Applicant No.1 Subhash s/o. Kashinath Akamar and Applicant No.2 Ramchandra s/o. Kashinath Akamar in Crime

No.95 of 2015 registered at Sengaon Police Station, District Hingoli for the offences punishable under Sections 326, 447, 504 and 506 read with 34 of the Indian Penal Code, they shall be released on bail on P.R. and S.B. of Rs.15,000/- each.

- III. They shall not tamper with the prosecution evidence and shall make themselves available as and when required.
- IV. Till filing of charge-sheet Applicants shall not enter village Pankanergaon, Taluka Sengaon, District Hingoli without prior intimation to the Investigating Agency.

[INDIRA K. JAIN, J.]

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