

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.666 of 2014

(Ab. Jaheer s/o Ab. Munaf and others

vs.

State of Maharashtra, through P.S.O, Channi, Tahsil Patur, District Akola)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 19, 2015.

Heard Mr. T.M. Malnas, the learned Counsel for the applicants and Mr. M.J. Khan, the learned A.P.P. for the non-applicant/State.

By the present application, the applicants are before this Court seeking their pre-arrest bail in connection with Crime No.134/2014, registered at Channi Police Station, Tahsil Patur, District Akola for the offences punishable under Sections 353, 143, 147, 148, 323, 336 read with Section 149 of the Indian Penal Code.

The learned Counsel for the applicants vehemently submits that a false case is foisted against the applicants. He submits that the report is lodged by the police personnel. He further submits that the report is ambiguous and imaginary story against the applicants. He further submits that it is only the allegation in the report that the applicants were identified by the

panchas, who were associated with the Special Squad and as the Special Squad was conducting the raid, there was no occasion for these persons in the Special Squad to identify the applicants. The submission of the learned Counsel is, the story of the prosecution is nothing but a falsehood. The learned Counsel further submits that on the backdrop of the insufficient material against the applicants, there is no requirement of the applicants' custodial interrogation. He further submits that the applicants were protected by this Court by an interim order dated 23/12/2014 and prays for allowing the application.

The learned A.P.P. vehemently opposes the application.

The perusal of the order passed by this Court dated 23/12/2014 shows that the application was opposed on the ground that the offence is serious in nature that the police personnel, who were discharging their duties and were in a process to conduct a raid, were subjected to assault by the applicants. The perusal of the record shows that on 07/12/2014, the Assistant Police Inspector of Special Squad Mr. Sachin Jadhav, on the direction of the Superintendent of Police, was on patrolling duty with his associates. The report further states that on receiving a secrete information that some people are indulged in the act of gambling, the Squad rushed to the spot along with panch-witnesses and local police personnel. On

raiding the spot, the Squad found that some people are engaged in playing cards. The Squad arrived at a conclusion that people are indulged in the act of gambling. The vehicle was stopped from a distance. The Squad started proceeding to apprehend the accused on the spot. The accused persons sensing that they would be subjected to raid started pelting stones on the police personnel and panchas, and also electrical energy supply was disturbed causing darkness on the site.

Though the submission of the learned Counsel for the applicants looks attractive to the effect that the applicants were unknown to the Special Squad and only on the false allegation they are implicated, the submission cannot be accepted on the backdrop of the material. The report and the material collected by the investigating agency in the process of investigation made available to this Court show that though the Squad was led by the A.P.I. of the Special Squad, there were the local police personnel and the panch witnesses, who were assisting the Squad. A specific reference is made in the report that the accused, who were found indulged in the act of gambling, were identified by the panchas and the local police staff. The report further reads that since the Squad was conducting the raid, the accused pelted stones at the Squad and the persons including the local police and the panch witnesses. The reply filed by the State shows that this is not the solitary

incident, where the applicants are involved in the act of gambling. The reply refers to the antecedents of the applicants. It would be interesting to note that applicant no.1 is having at least four offences in past registered against him for the similar nature of offences, applicant no.2 having eight offences registered against him, applicant no.3 having two offences registered against him, applicant no.5 having one offence registered against him earlier in the year 2014 and applicant no. 6 having one offence registered in the year 2013 for the offence under Section 147 to 149, 452, 294, 323, 506 of the Indian Penal Code. The reply further shows that it is the modus operandi of the applicants in the year 2010. The Police Officer, who were discharging their duties, were also subjected to similar act like pelting stones and the police officials received grievous injuries.

The learned A.P.P. was justified in submitting that the applicants, who are having no regards to law and order or the police machinery discharging its duties, are not entitled for any interim protection, as the investigation is at initial stage and if the applicants are granted protection, there is every possibility that they may flee away and thus would cause hindrance in the investigation.

Considering the material collected against the applicants, which is at initial stage and considering the manner

in which the offence is committed, I am of the opinion that the applicants are not entitled for the protection, as claimed for. The application thus being meritless, deserves to be rejected and the same is rejected accordingly.

JUDGE

**sdw*