

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

Criminal Application No. 3128 of 2016

District : Nanded

1. Ramesh s/o. Uddhav Gomare,
Age : 44 years,
Occupation : Service &
Agriculture,
R/o. Village Kurula,
Taluka : Kandhar,
District : Nanded.

 2. Laxman @ Balu s/o. Uddhav Gomare,
Age : 34 years,
Occupation : Agriculture &
Ex-Member of Panchayat Samiti,
Kandhar, R/o. Village Kurula,
Taluka : Kandhar,
District : Nanded.
- .. Applicants.

versus

1. The State of Maharashtra,
Through Police Station, Kandhar,
Taluka : Kandhar,
District : Nanded.

 2. The Superintendent of Police,
Nanded.
- .. Respondents.

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Mr. J.M. Murkute, Advocate, for the applicants.

*Mr. C.V. Dharurkar, Addl. Public Prosecutor, for
respondent nos.1 and 2.*

*Mr. Joydeep Chatterji, Advocate, for the
original complainant.*

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CORAM : Smt. SADHANA S. JADHAV, J.

DATE : 11TH JULY 2016

ORAL ORDER:

Heard the learned Counsel for the applicants, the learned Addl. Public Prosecutor for respondent nos.1 & 2 and the learned Counsel appearing for the original complainant, who is permitted to assist the learned Addl. Public Prosecutor.

2. The applicants herein are apprehending their arrest in connection with Crime No. 103/2016, registered at Police Station, Kandhar, District Nanded, for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504, 506, 427 of the Indian Penal code and Section 135 of the Maharashtra Police Act.

3. On 1st May 2016, Gurunath s/o. Devrao Chivde lodged a report at Kandhar Police Station, alleging therein that on 30th April 2016, when he was in the company of his father and Magdum Shet, the present applicant mounted assault upon him with iron rod. That, they had nurtured and defeated the party candidate to which applicants belong, in the Grampanchayat elections. On the basis of this report, Crime No. 103/2016 has been registered against the present applicants.

4. It is a matter of record, that on 1st May 2016, Raosaheb s/o. Vitthal Tompe had lodged a report at Kandhar Police Station, against the complainant and others alleging therein that on 30th April 2016, there was an altercation and in the said altercation, the complainant had mounted assault upon the applicant. On the basis of the said report, Crime No. 102/2016 was registered against the complainant and others for offences punishable under Sections 307, 143, 147, 148, 149, 324, 323 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

5. The learned Counsel for the applicants submits that as a counter blast to the FIR on the basis of which Crime No. 102/2016 was registered, complainant Gurunath s/o. Devrao Chivde has initiated prosecution against present applicants.

6. The learned Counsel for the original complainant submits that there are criminal antecedents against the present applicants, inasmuch as they have also been prosecuted for the offence punishable under Section 302 of the Indian Penal Code and in view of this, the applicants do not deserve to be protected by way of pre-arrest bail.

7. As against this, the learned Counsel for the applicants submits that the members of the group of

the complainant had filed Criminal Application No. 3020 of 2016 seeking pre-arrest bail in Crime No. 102/2016 which is the counter case. This Hon'ble Court had an occasion to consider the antecedents of the group of the complainant and had also observed that there is longstanding rivalry between the complainant and the present applicants and most of the cases are registered at the behest of each other. However, taking into consideration the allegations made in the FIR registered as Crime No. 102/2016, this Hon'ble Court was pleased to protect the accused named therein. The learned Counsel for the applicants, therefore, submits that the case of the applicants also be examined from the same point of view.

8. Perused the injury certificate. It appears that the complainant Gurunath Chivde had sustained one contusion on left arm which was a simple injury, whereas the members of the group of the applicant, more particularly, Uttam Chivde, who happens to be brother of the complainant, had sustained two sutured wounds on head region. It appears that the certificates are issued by Aadhar Hospital which is run by Dr. Mr. Kadam and Dr. Mrs. Kadam.

9. Taking into consideration all these aspects, present applicants deserve to be protected by way of pre-arrest bail. At this juncture, it is necessary

to consider the submission of the learned Addl. Public Prosecutor, that taking into consideration rivalry of both the groups, it would create a serious law and order problem and, therefore, the applicants be directed not to reside within the jurisdiction of Grampanchayat Kurula till filing of the charge sheet.

10. Hence, the Application is allowed.

(a) In the event of arrest of the applicants, in connection with Crime No. 103/2016, registered at Police Station, Kandhar, District Nanded, for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504, 506, 427 of the Indian Penal code and Section 135 of the Maharashtra Police Act, they be released on bail, on their furnishing P.R. Bond in the sum of Rs. 15,000/- each, with one or two sureties of the like amount by each of them.

(b) The applicants shall not reside within the precincts of Grampanchayat Kurula till filing of the charge sheet.

11. The Application stands disposed of in the aforesaid terms.

(Smt. SADHANA S. JADHAV)
JUDGE

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