

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

Criminal Application No. 5082 of 2016

District : Dhule

1. Jayesh Bhalerao Nagmal,
Age : 22 years,
Occupation : Student.
2. Kamlesh Nana Nagmal,
Age : 24 years,
Occupation : Student.
3. Nana Baburao Nagmal,
Age : 46 years,
Occupation : Labour.
4. Bhimrao Bapu Nagmal,
Age : 60 years,
Occupation : Labour.
5. Bhagwan Fakira Nagmal,
Age : 44 years,
Occupation : Labour.
6. Dipak Bhimrao Nagmal,
Age : 22 years,
Occupation : Labour.
7. Kiran Prakash Nagmal,
Age : 19 years,
Occupation : Labour.
8. Bhaiyya Bhimrao Nagmal,
Age : 34 years,
Occupation : Labour.

All R/o. Anjanvihire,
Taluka : Shindkheda,
District : Dhule.

.. Applicants.

versus

The State of Maharashtra,
Through Police Inspector,
Dondaicha Police Station.

.. Respondent.

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Mr. P.S. Paranjape, Advocate, for applicants.

*Mrs. V.N. Patil (Jadhav), Addl. Public Prosecutor,
for the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 14TH SEPTEMBER 2016

ORAL ORDER:

Applicants / accused in Crime No. 112/2016 for offences punishable under Sections 395, 323, 504, 506 and 427 of the Indian Penal Code, registered with Police Station, Dondaicha, District Dhule, at the instance of Dagdu Sakharam Sonawane, are seeking pre-arrest bail.

2. Heard the learned Counsel for applicants / accused. The learned Counsel argued that the crime in question was registered as a counter blast. The learned Counsel further argued that perusal of the FIR does not show offence of dacoity. The learned Counsel further argued that applicants are falsely implicated in the crime in question. It is argued that the FIR does not show causing of hurt by applicants to the informant.

3. Perused the FIR lodged by Dagdu s/o. Sakharam Sonawane on 22.08.2016 which has resulted in registration of Crime No. 112/2016 with Police Station, Dondaicha. Informant Dagdu Sonawane has reported that on 22.08.2016, he had been to town Dondaicha for his work. He received a call from his wife on his mobile phone. The informant reported that his wife informed that present applicants had attacked their house and they are threatening her. As informed by his wife, informant Dagdu Sonawane returned to his house to see all applicants present at his house. The informant reported that all applicants started threatening him by accusing him that he had lodged complaint against them regarding erection of statue of Dr. Babasaheb Ambedkar. It is further reported by the informant that all accused persons i.e. present applicants started giving fist blows and were pushing him and when he was resisting them, they started giving fist and kick blows to him. It is further averred by the informant that applicant no.1 Jayesh Nagmal and applicant no.2 Kamlesh Nagmal then snatched an amount of Rs. 17,395/- from the pocket of his shirt. His shirt was torn in the incident.

4. Section 390 of the IPC defines when the theft becomes robbery. Causing of hurt while committing theft turns the offence into robbery.

Section 391 of the IPC defines 'dacoity'. 'Voluntarily causing hurt' is defined by Section 321 of the IPC. *'Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person'*, is said to have voluntarily caused hurt. Section 319 of the IPC defines 'hurt' as whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. Averments in the FIR do show that all applicants have assaulted informant Dagdu Sonawane by means of fist and kick blows. This fulfills requirement of causing hurt and ultimately an amount of Rs. 17,395/- was snatched from pocket of the informant by two of the applicants.

5. In this view of the matter, no case for grant of anticipatory bail is made out. All applicants are named in the FIR. The crime in question is serious.

6. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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