

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1505 OF 2016

1. Kashinath Savaliram Wagh
2. Sham Kashinath Wagh

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Ms. Sneha G. Sanap Advocate for Applicant.
Mr. Vinod S. Chate APP for the State.
Ms. K. S. Nirmal, P.S.I. Nashik Taluka
Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 29, 2016.

PC :

- 1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 80 of 2016 registered at Nashik Taluka Police Station for offences punishable under sections 143, 147, 148, 149, 452, 336 & 427 of the Indian Penal Code.
- 2) It is the case of the prosecution that on 25/07/2016 at about 8.57 p.m., the first informant namely Ms. Bharati Gaikwad lodged a report at the police station alleging therein that the elections to post of Sarpanch and Upsarpanch

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were held on 21/06/2016. Her party had got majority and therefore, she was elected as Sarpanch. That the opposition panel headed by Shashikant Wagh were annoyed with the said defeat. It is further alleged on 24/07/2016, when she was at home, the members of the opposition panel namely Shashikant Wagh and others had been to her house at about 7.30 p.m. They were armed with the swords, iron rods. They had entered the house and abused the complainant. They had pelted stones at the J.C.B. Machine, tractor and her house. That thereafter, she had lodged the report. On the basis of her report, crime no. 80 of 2016 was registered.

3) The learned counsel for the Applicants submits that on 25/07/2016, at about 7.57 p.m., Shashikant Wagh had lodged a report at the police station in respect of similar incident. On the basis of the said report, crime no. 79 of 2016 was registered. According to the learned counsel for the Applicant, the subsequent report was lodged, only as a counter blast to crime no. 79 of 2016.

4) It appears from the papers of investigation that on 28/07/2016, the supplementary statement of the complainant was recorded in which she alleged that in the said transaction, the accused had attempted to outrage her modesty and had stolen the golden ornaments which were on person and

therefore, sections 354 & 395 of the Indian Penal Code were added.

5) The learned APP fairly submits that no person was injured. That on the first date i.e. on 25/07/2016, the first informant had not realized that her ornaments were stolen and therefore, the same was mentioned in the supplementary statement.

6) It prima facie appears that both the reports are lodged out of political rivalry at the time of Grampanchayat elections. Taking into consideration the nature of allegations and the papers of investigation, Applicants deserve pre-arrest bail, however, it is made clear that However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

(i) Application is allowed.

(ii) In the event of arrest, Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount.

(iii) Applicants shall report to the concerned police station on 3rd September, 16th September and 17th of September 2016 between 10.00 a.m. to 12.00 noon

and co-operate with the investigating agency to the best of their capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)