

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

CRIMINAL APPLICATION NO.2969 OF 2017

1. Hamid Hussain Sayyed @ Babali **... Applicants**
Hasni Sayyed Hamid Yahiya,
Age 35 years.
2. Aakib Yahiyamiya Sayyed @ Aakib
Yahiya Hasani, Age 32years,
Both r/o Chiraj Mohalla,
Nandurbar, Dist. Nandurbar

VERSUS

- 1 The State of Maharashtra **... Respondents**
- 2 The Superintendent of Police,
Nandurbar
- 3 The In-charge Police Station
Officer, Nandurbar (City) Polie
Station, Dist. Nandurbar

Mr. Vijay Jagtap h/for Mr.V. D. Sakpal, Advocate for
the applicants

Mr. P. N. Kutti, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 30th June, 2017

ORDER:

1. Heard Mr. Jagtap, learned counsel for the
applicants and Mr. Kutti, learned APP for the State.
2. Mr. Jagtap, the learned counsel for the
applicants submits that, earlier, the present first
informant had filed a complaint against the present
applicants on 27.03.2017 for non cognizable offence,

bearing NCR No.61/2017. The learned counsel invited my attention to the said complaint, the same and substance of the allegation is that the accused persons dragged the informant from the shop and assaulted him with fist and blows. Subsequently in the same first information report, endorsement is made that on 04.03.2017, Crime No. 79/2017 for the offence punishable under Sections 394, 452, etc. of the Indian Penal Code is registered against the accused persons.

3. The allegations in the earlier complaint are different than the allegations made in the first information report lodged for the same incident on 04.03.2017.

4. Looking to the averments in both the complaints/ first information reports, it appears that there is material variance between two complaints regarding the same offence. Hence, in my opinion, the applicants can be protected from being arrested. Hence following order.

5. In the event of arrest of the applicants in connection with Crime No.I-79/2017, registered with

Nandurbar City Police Station, District Nandurbar for the offences punishable under sections 394, 452, 324, 323, 427, 504, and 506 of the Indian Penal Code, they shall be released on bail on their executing P.R. Bond of Rs. 10,000/- [Rupees ten thousand only], with one solvent surety in the like amount.

6. Criminal application is disposed of.

(K. L. WADANE, J.)

JPC