

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

CRIMINAL APPLICATION (ABA) NO. 805 OF 2019

Prakash Manohar Salphale and others .Vs. State of Maharashtra through
PSO P.S. Khadan, Tq. and Dist. Akola.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. H.M. Mohata, Advocate for applicants.
Mr. M.K. Pathan, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 11, 2019

Heard Mr. H.M. Mohata, learned counsel for applicants and Mr. M.K. Pathan, learned Additional Public Prosecutor for non applicant-State. Also perused the detailed reply filed on behalf of the prosecution as well as investigation papers placed before me.

The applicants are apprehending their arrest in connection with Crime No.562/2019 registered with Police Station, Khadan, Tq. and Dist. Akola for an offence punishable under Sections 323, 325, 354, 294, 506 read with Section 34 of the Indian Penal Code.

The incident is dated 19.10.2019 at 12:30 in the noon. The report is lodged by Sau. Sangita Salphale on 20.10.2019 at 19:47 hours. Thus, for the incident which occurred on 19.10.2019 the report is lodged on 20.10.2019. Though explanation is given in the report for belated lodging of the report, in my view, said does not appeal to the judicial mind at least *prima facie* in view of presence of complainant's brother-in-law Dinkar.

It is an admitted position on record that on 19.10.2019 applicant no.1-Prakash Salphale approached to Police Station, Khadan and lodged his report that Dinkar Salphale who according to prosecution is injured in crime in which applicants are praying for pre-arrest bail used abusive language and also assaulted by fist blows. On said report Police Station Officer, Khadan registered NC No.1172/2019.

From the perusal of the NC report as well as report lodged by Sangita it is clear that it is a dispute amongst close relatives regarding fixing of pipe to give direction to waste water.

Injury certificate does not show any visible injury on Dinkar though it is alleged that applicant no.1 Prakash assaulted on him by means of hoe.

The applicants were protected by this Court on 27.11.2019 on a condition that they shall attend Police Station, Khadan from 29.11.2019 to 07.12.2019 and to be with investigating officer from 11:00 a.m. to 05:00 p.m. The learned Additional Public Prosecutor for the State upon instructions from the investigating officer would submit that applicants have scrupulously followed the condition imposed upon them and have already joined investigation.

It is also to be noted that applicant no.1 is serving in R.L.T. College of Science, Akola as a Laboratory Incharge, the applicant No.2 is a Pathologist and applicant no.3 is in service and they do not have any

criminal record at their discredit. Therefore, there is no chance that they will not be available to course of justice.

In view of the factual matrix i.e. discussed in the body of the order, I am of the opinion that applicants have made out case. Consequently, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.562/2019 registered with Police Station, Khadan, Tq. and Dist. Akola for an offence punishable under Sections 323, 325, 354, 294, 506 read with Section 34 of the Indian Penal Code, applicants – (1) Prakash Manohar Salphale, (2) Avinash alias Anya Manohar Salphale and (3) Kamalgir Deogir Giri, be released on bail on they executing P.R. Bond in the sum of Rs.15,000/- each with one solvent surety in the like amount by each of them.
- (iii) Applicants are directed to attend Police Station, Kahdan, Tq. and Dist. Akola as and when they are called by the investigating officer. However, for that the investigating officer shall give clear cut two days prior written communication to the applicants.

The application is disposed of.

JUDGE