

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

ANTICIPATORY BAIL APPLICATION NO.718 OF 2020

1. Vaman Sitaram Koli
2. Dhanraj Jagannath Sapkale (Koli)
3. Supadu Ramesh Solunkhe (Sapkale) ... Applicants

Versus

The State of Maharashtra ... Respondent

.....
Mr. J. V. Patil, Advocate for applicants.
Mr. N. T. Bhagat, APP for respondent – State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16th October, 2020

ORDER :

1. Present application has been filed by applicants i.e. original accused Nos.6, 7 and 12 under Section 438 of the Code of Criminal Procedure as they are apprehending their arrest in connection with Crime No.201 of 2020 registered with Yawal Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 341, 325, 323, 143, 147, 148, 149 and 427 of Indian Penal Code, Sections 144 and 188 of the Code of Criminal Procedure and Sections 37, 37(1), 37(3) of the Maharashtra Police Act, 1951.

2. Heard learned Advocate Mr. J. V. Patil for applicants and learned APP Mr. N. T. Bhagat for respondent – State.

3. It has been vehemently submitted on behalf of the applicants that perusal of the FIR would show that the informant was in fact, not even knowing the full name of the present applicants. No specific role has been attributed though it may give an impression that their presence has been shown. Nothing is to be recovered from the present applicants. The co-accused persons have been enlarged on regular bail. The application filed by the present applicants has been rejected by the learned trial Judge only on the ground that the offence is serious and non bailable. The custodial interrogation of the present applicants is not at all required and their application ought to have been allowed. Furthermore, applicants Nos.1 and 3 are senior citizens aged more than 60 years.

4. Per contra, learned APP strongly opposed the application by saying that serious offence has been committed. The family members of the applicants had, in fact, acted with common object. Possibility of tampering with the evidence cannot be ruled out.

5. Perusal of the FIR lodged by one Shyam Dhondu Sonawane would show that the incident had taken place a day before the FIR was lodged i.e. on 18-05-2020 at about 7.00 p.m. He states that there was a money transaction between the son of applicant No.1 and the son of the informant. The threat is stated to have been given by the son of applicant No.1. From the contents of the FIR, it can be seen that there was no direct motive for the present applicants to get

involved in the offence. Their relationship *inter se* has not been stated so that it can be inferred that the entire family had acted in concert. Informant says that at about 8.30 p.m. on 18-05-2020, he and his two sons were proceeding near Chopda Chauphuli, at that time, their way was intercepted by another car. It is stated that seven persons got down from the car and others came on motorcycles. There was exchange of words between one Dnyaneshwar @ Nana Namdev Koli and on his say it is stated that about 14 to 15 persons started assaulting informant and his two sons. Informant says that he was assaulted on his right leg by one Bala @ Balu Namdev Koli by iron rod. Ramchandra Waman Koli had given him assault by baseball stick. Another accused by name Chaitram Koli had assaulted informant's son Harshal with axe. Accused Jagdish Koli assaulted by iron rod. Thereafter, it is stated that the other persons with them had assaulted all the three persons i.e. informant and his two sons by sticks on their legs, hands, head, back and shoulders. Thus, it can be seen from the contents of the FIR that no specific role has been attributed to the present applicants. In general, a statement has been made that they have assaulted with sticks. Under such circumstance, when at this stage we cannot get the motive behind the alleged act as there was allegations about enmity, then the liberty of the present applicants need not be curtailed. The learned trial Judge has simply said that the offence is serious and the investigation is pending which cannot be said to be a proper reason. Under such circumstance, the application deserves to be allowed. Hence, the following

order :-

ORDER

- 1) Application stands allowed.
- 2) In the event of arrest of applicants viz. (i) Vaman s/o Sitaram Koli; (ii) Dhanraj s/o Jagannath Sapkale (Koli); (iii) Supadu s/o Ramesh Solunkhe (Sapkale) in connection with Crime No.201 of 2020 registered with Yawal Police Station, Tq. Yawal, Dist. Jalgaon for the offences punishable under Sections 307, 341, 325, 323, 143, 147, 148, 149 and 427 of Indian Penal Code, Sections 144 and 188 of the Code of Criminal Procedure and Sections 37, 37(1), 37(3) of the Maharashtra Police Act, 1951, they be released on P.R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each for each of the applicants.
- 3) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 4) The applicants shall remain present before the Investigating Officer on every Saturday between 10.00 a.m. to 2.00 p.m. till filing of charge sheet.
- 5) The applicants should cooperate with the investigation.

[SMT. VIBHA KANKANWADI, J.]

SCM