

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

BAIL APPLICATION NO.174 OF 2021

1. Balu S/o Dattrao Rathod
Age-25 years, Occu. Labour,
R/o. Pajhar Tanda, Aundha Nagnath,
Tq. Aundha Nagnath, Dist. Hingoli.
2. Laxman S/o. Shivilal Aade
Age- 60 years, Occu. Agriculture,
R/o. Pajhar Tanda, Aundha Nagnath,
Tq. Aundha Nagnath, Dist. Hingoli. ...Applicants

Versus

The State of Maharashtra
Through Police Inspector,
Aundha Nagnath Police Station,
Tq. Aundha Nagnath, Dist. Hingoli. ...Respondent

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Mr. Suvidh S. Kulkarni h/f Mr. Vivek .U. Rathod, Advocate for the applicants.
Mr. N.T. Bhagat, APP for the respondent-State.

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CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 02nd MARCH, 2021

ORDER:-

1. Applicants have been arrested in connection with Crime No.15 of 2021 dated 15.01.2021 registered with Aundha Nagnath Police Station, Taluka Aundha Nagnath, District Hingoli, for the offence punishable under Sections 143, 147, 148, 149, 353, 332, 341 of the Indian Penal Code and under Section 130 (1) (2) (3) of Representation of People Act. They have filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. Suvidh S. Kulkarni

holding for Mr. Vivek Rathod for the applicants and the learned APP Mr. N.T. Bhagat for the respondent-State. In order to cut short it can be said that both the learned Advocates have made strong submissions in support of their respective contentions.

3. It can be seen from the First Information Report which is lodged by PSI Ganesh Shesherao Rathod posted at Aundha Nagnath Police Station, that he was on patrolling duty along with other police officers on 15.01.2021. At that time, it was election day for the gram panchayats. He received phone call from Zonal Officer that people have started gathering near the polling booth at Pajhar Tanda and informant should go there. Therefore, he went in police vehicle along with other police persons at the said polling booth. When people saw that police had come, they started running here and there. P.I. Munde also arrived when he was trying to persuade the mob, at that time, Balu Dattrao Rathod i.e. present applicant no.1 and one Dharma Shankar Rathod caused injury with their stick to Police Head Constable, Thitte. Therefore, the informant and other police officers made applicant no.1 and Dharma Shankar Rathod to sit in the police vehicle thereafter, many other people from the village came and obstructed the way of the vehicle. They were dragging Dharma Shankar Rathod from the vehicle, at that time informant, P.I. Munde and others were obstructing them from doing so, however, some of those

persons took away Dharma Rathod from the police jeep along with them. Thereafter, police made enquiry with applicant no.1, as to who were the persons who had taken Dharma Rathod with them. He disclosed the name of present applicant no.2 and some other persons. Thereafter, the informant has lodged the report.

4. Taking into consideration the contents of the FIR, definitely nothing is required to be seized at the instance of the present applicants. No doubt, prima facie it can be said on the basis of contents of the FIR, that the applicants were not suppose to take the law in their hands, but the fact remains that it was election day and it is stated that though it was appealed that nobody should make a campaign within the 100 meter area of the polling booth, yet, applicant no.1 was making appeal to the voters that they should vote for a particular candidate. That act would have led to a very trifling offence, but then it is stated that the present applicant no.1 and said Dharma Rathod had assaulted Police Head Constable, Thitte on his left hand with stick. The said head constable would have received simple injury. Now the name of applicant no.2 is stated to be taken by applicant no.1 and only on the basis of that fact allegedly disclosed by applicant no.1, applicant no.2 has been arrested. Therefore, when it will take long time to complete investigation and file charge sheet and then the logical end of the trial, it entitles the applicants to be released

on bail, however, with stringent conditions. Hence, the following order is passed:

ORDER

- I) The application stands allowed.
- II) Applicants viz. Balu S/o Dattrao Rathod and Laxman S/o. Shivilal Aade, arrested in connection with Crime No.15 of 2021 registered with Aundha Nagnath Police Station, Taluka Aundha Nagnath, District Hingoli, for the offence punishable under Sections 143, 147, 148, 149, 353, 332, 341 of the Indian Penal Code and under Section 130 (1) (2) (3) of Representation of People Act, be released on P.R. of Rs. 30,000/- (thirty thousand) with two solvent sureties of Rs.15,000/- (fifteen thousand) each.
- III) Applicants shall not tamper with the evidence of the prosecution in any manner and shall co-operate with the investigation.
- IV) Applicants shall attend the concerned police station on every Monday and Friday between 10.00 am to 12.00 pm, till filing of charge sheet.
- V) Applicants shall not indulge in any criminal activity.
- VI) Bail before the trial Court.

(SMT. VIBHA KANKANWADI, J.)