

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 ANTICIPATORY BAIL APPLICATION NO.731 OF 2021

ARJUN KHUSHAL DABHADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sachin S. Deshmukh
APP for Respondents: Mr. V.S. Badakh.

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CORAM : PRAKASH D. NAIK J.

DATE : 22ND OCTOBER, 2021.

PER COURT:

1] The applicants are apprehending arrest in connection with crime No. 170 of 2021 registered with Shrirampur Taluka Police Station, Dist. Ahmednagar for offence punishable under Section 307, 308, 323, 427, 504, 506 of IPC.

2] The complaint is lodged by Nilesh Babasaheb Pardeshi on 10.6.2021. It is alleged that on 7.6.2021, the complainant, his friend Amol Balaseheb Dushing and Akash Pardeshi had proceeded to meet their friend in vehicle. After meeting their friend, they were returning home. While they reached at Gondegaon village, they were accosted by the accused who were traveling in the vehicle. Seven persons got down from the vehicle. Vijay Hatangale @ Ghogar caught hold of the complainant and pulled him and assaulted him. Arjun Dabhade threatened him that he would be finished. He took out a knife and gave blow on his neck which was evaded by him, which resulted on blow on his cheek, whereby knife was pierced through his cheek. Associates of said accused then assaulted complainant with wooden stick, fist

and kick blows. About a month ago Arjun Dabhade had threatened him that he should not interfere in his matter. There was altercation between them. It is further alleged that the accused are not gainfully employed and that they are indulged in criminal activities. They have formed Dabhade Gang. They indulge in acts of atrocities and threaten the members of public for their unlawful gain. They have used huge property through their criminal activities. Cases of theft, robbery, dacoity were registered against Arjun Dabhade. He has created terror in the minds of people residing in Shrirampur Taluka on account of the terror created by members of Dabhade gang. Members of public are not willing to come forward to lodge complaint against them.

3] The applicants have preferred applications for anticipatory bail before the court of sessions which has been rejected vide order dated 25.6.2021. While rejecting the application, the court has observed that nature of offence is sufficient to hold that the custodial interrogation of the applicants is necessary. Weapons are required to be seized. Possibility of tampering of evidence and witnesses and hampering investigation cannot be ruled out as they are members of the gang of which Arjun Dabhade is the leader. He has previous criminal record. Possibility of securing their presence at the time of trial is remote. Hence, anticipatory bail cannot be granted to them. It was also observed that complainant had suffered injury on his cheek which was treated.

4] The learned counsel for the applicants submitted that the allegations in the FIR are false. The FIR is concocted. Custodial interrogation of the applicants is not necessary. It is submitted that applicant Nos. 5 and 6 were arrested during the pendency of this application and they have been subsequently granted regular bail. It is further submitted that while the injured was taken to the hospital, history was provided which refers to Road Traffic Accident. Thus, allegations in the FIR are false. It is further submitted that the complainant has filed an affidavit stating that the deponent does not want to further proceed with the complaint and to achieve the ends of justice, has filed

affidavit. The complaint is filed out of misunderstanding. In the process, facts are twisted. Those are far away from truth.

5] The learned APP vehemently opposed the application. It is submitted that offence is of serious nature. The version of the complainant was supported by injury certificate. The FIR was recorded as per the version of the complainant. It is submitted that against Arjun Dabhade, 16 cases were registered. 4 cases were registered against Namod @ Namya Arun Kamble, 3 cases were registered against Viki Baban Dhamke, 6 cases were registered against Vijay@ Ghogar Hatangale. The learned counsel for the applicants, however, submits that out of 16 cases, applicant Arjun has been acquitted in 13 cases.

6] I have perused the FIR and the investigation papers. The FIR depicts the nature of offence committed by the accused. The version of the complainant is supported by injury certificate. There are criminal antecedents against the applicants. The affidavit filed by the complainant mentions that the complaint is an outcome of misunderstanding between the complainant and applicants. It is difficult to digest as to what can be misunderstanding when the complainant had categorically narrated and incident of assault and the nature of injuries sustained by him. Para.2 of the affidavit mentions that alleged complaint is out of misunderstanding and in the said process, facts are twisted which are far away from the truth. Said averment would indicate that the investigating agency has twisted the facts. It is pertinent to note that the FIR is lodged by the complainant and police have recorded his statement and registered the offence. It is apparent that when the complainant intends to invoke the provisions of law, he has approached the police and when he intends to back out from the contents of FIR, the blame is put on the investigating agency, which cannot be countenanced. Affidavit further mentions that applicants and complainants are friends and they are having cordial relations and proceedings are initiated only on account of misunderstanding. The

contents of the affidavit run counter to the averments of the FIR.

7] Considering the aforesaid circumstances, on merits and on the ground of settlement between the parties, no relief can be granted under Section 438 of Cr.PC. Hence, the order.

:O R D E R

[i] Anticipatory bail application No. 731 of 2021 stands rejected.

[ii] At this stage, learned counsel for the applicants submits that the applicants were granted interim protection on 17.8.2021. The applicants propose to challenge this order before the Apex Court and hence, interim protection granted earlier may be continued for a period of three weeks.

[iii] Prayer is opposed by the prosecution.

[iv] Considering the fact that the applicants intend to challenge this order before the Apex Court, the interim relief granted earlier is continued for a period of three weeks.

[v] The application stands disposed of in aforesaid terms.

**[PRAKASH D. NAIK]
JUDGE**

grt/-