

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

903 ANTICIPATORY BAIL APPLICATION NO.1220 OF 2021

- 1) Sham Bhaguji Khandagale,
 - 2) Vijubai Bhaguji Khandagale,
 - 3) Ajay Sham Khandagale,
 - 4) Kishor Ashok Khandagale,
 - 5) Changdev Rajkumar Khandagale
- ...Applicants

VERSUS

The State of Maharashtra

...Respondent

...

Mr. Ziyaulhaque Farooqui H.F., Counsel for applicants
Mr. A.S.Shinde, APP for respondent-State

...

CORAM : PRAKASH D. NAIK, J.

DATE : 14th DECEMBER, 2021

PER COURT:

1] The applicants are apprehending arrest in Crime No.0190 of 2021 registered with Ambhora Police Station, Dist.Beed for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 504 and 506 of Indian Penal Code (for short, 'IPC').

2] Court was not inclined to grant relief to applicant No.1, learned Counsel for applicants on instructions, submits that applicant No.1 may be permitted to withdraw his application.

3] The prosecution case is that first informant Bharat Balu Pawar had lodged First Information Report (for short, 'FIR') alleging that on 28.07.2021, Sham Bhagaji Khandagale had abused the complainant and

slapped him. The younger brother of complainant, Ram and Nagnath Pawar came to the spot of incident and questioned Sham Khandagale for assaulting the complainant. At that time, Sham Khandagale threatened the complainant and his brother that he would lodge atrocity case against them. At that time, wife of Sham Khandagale Vijubai, Ajay Khandagale, Vikas Khandagale, Kishor Khandagale, Changdev Khandagale and Dadasaheb Khandagale came to the spot. They were armed with axe, iron rod, stick and wooden plank. They abused the complainant. They surrounded the complainant and started assaulting him and others. Dadasaheb and Changdev Khandagale assaulted by wooden plank and axe on his back and head. All of them assaulted by fist and kick blows. Sham Khandagale took the axe from the hand of Vikas Khandagale and assaulted the complainant on his head. Vikas Khandagale assaulted with stick and iron rod. Nagnath Pawar is assaulted by Ajay Khandagale, Kishor Khandagale and Vijubai Khandagale by iron rod on his head and by stick on his waist. Vijubai Khandagale threatened, false case of atrocity and rape would be lodged against them. The complainant suffered injury to his head.

4] First Information Report has been registered on 29th July 2021 with the same police station at the instance of Sham Bhagaji Khandagale for the offences punishable under Sections 307, 354, 327, 324, 143, 147, 148, 504 read with 149 of IPC and Sections 3(1) (r), 3(2) (s) and 3(1)

(w) (I) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5] Learned Counsel for applicants submitted that the FIR is false. FIR is registered from the applicants' side against the opponents. The allegations in the FIR are vague. The accused did not produce the injury certificate from Government hospital. The injury certificates relied upon by the prosecution are from private hospital. Vikas Khandagale was arrested and granted bail by the Sessions Court. While allowing the said application, it was observed that the injury certificates were issued by private hospital. Although, the informant and the others went to civil Hospital at Dhamangaon first and thereafter, to private hospital, the prosecution has not produced injury certificates from Civil Hospital. In para 8 of the order granting bail to Vikas Khandagale, it is observed that Ram and Nagnath had appeared before the Court and filed affidavit contending that the applicants and the witnesses are residing in the same village and intend to maintain good relationship with the applicants-accused and they have no objection for granting bail to Vikas Khandagale. It is further submitted that the complainant Bharat Pawar has also filed an affidavit before the Sessions Court supporting the relief prayed by the accused.

6] Learned APP submitted that specific role has been attributed to all accused. They have participated in the assault. Some of them were

armed with dangerous weapons. Applicant No.1 has been attributed specific role of assaulting the injured. The injury certificate of Bharat Pawar and Ram Pawar indicates that they had suffered grievous injury. Nagnath Pawar had suffered simple injury on head and right parietal region.

7] From the FIR, it is apparent that clear role was attributed to Sham Khandagale. Vikas Khandagale was arrested and granted bail. Role assigned to applicants No.2 to 5 is not clear. Considering the factual aspects as stated above, applicants No.2 to 5 can be granted anticipatory bail. Hence, I pass the following order.

ORDER

- (i) The application of applicant No.1 is disposed of as withdrawn.
- (ii) The application of applicants No.2 to 5 is allowed.
- (iii) In the event of arrest of applicants No.2 to 5 in connection with Crime No.0190 of 2021 registered with Ambhora Police Station, Dist.Beed, applicants No.2 to 5 be released on bail on executing P.R.Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount.
- (iv) Applicants No.2 to 5 shall report Investigating Officer on 20th, 21st and 22nd December 2021 at 11.00 am to 01.00 pm and as and when called for, till filing of charge-sheet.
- (v) Application stands disposed of.

(PRAKASH D. NAIK, J.)