

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1286 OF 2021

JAGANNATH KISAN PANDAGALE
AAKASH ROHIDAS CHECHARE
MAYUR ROHIDAS CHECHARE
PRASAD PRAKASH NEHE

...APPLICANTS

VERSUS

THE STATE OF MAHARASHTRA

...RESPONDENT

...

Advocate for Applicants : Mr. V.D. Sapkal, Senior
Advocate i/b. Mr. Sandip Sapkal
and Mr. A. S. Sakhare

APP for Respondent – State : Mr. A. V. Deshmukh

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th DECEMBER, 2021

PER COURT :-

1. The applicants are apprehending arrest in connection with Crime No. 2 of 2021 registered at Loni Police Station, Dist. Ahmednagar for the offences under sections 307, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code (for short "IPC"). The FIR was registered on 01.01.2021. Subsequently Section 302 of IPC was added.

2. In the FIR it is alleged that ten years ago complainant's grand father Dattatraya Kadu had sold 1 acre agricultural land

to Vasant Lahanu Nehe. Complainant's father filed suit. The Court had passed injunction order. There was dispute over the said property. On 31.12.2020, complainant and his brother Gaurav Kadu were proceeding towards Lohgaon. Amol Nehe, Kishor Nehe, Vasant Nehe, Suresh Nehe, Sachin Nehe were present at disputed agricultural field. They were ploughing by using tractor. The complainant and his brother questioned them and told them to stop work till their father arrived. They were threatened. Amol was armed with sickle, Kishor Nehe, Vasant Nehe, Suresh Nehe were having iron rod. Sachin Nehe came with 'Kudal'. They assaulted Gaurav. Complainant intervened. Amol assaulted him with sickle on hand, Sachin assaulted Gaurav with 'Kudal' on his head. Both were assaulted on hands and legs. Hearing their shouts Rohan Dongre, Akshay Deshmane came to the spot. Injured were taken to hospital. Gaurav had sustained injury.

3. The statement of the informant was recorded under section 164 of Cr.P.C. on 13.1.2021. In the said statement, role of assault was attributed to Kishor Nehe, Sachin Nehe, Amol Nehe, Vasant Nehe, Suresh Nehe, Akash Chechare, Mayur Chechare and Pandagale. He has improved his version by stating that Prasad Nehe (applicant No.4) gave rod to Amol

Nehe and told him to assault complainant. Akash Chechare (applicant No.2), Mayur Chechare (applicant No.3) and Pandagale (applicant No.1) were assaulting them with rod and sticks.

4. The learned counsel for the applicants submitted that the statement of two other witnesses were recorded under section 161 of Cr.P.C. and the said witnesses have not referred to the presence of the applicants at the scene of offence. Accused Suresh Nehe and Kishor Nehe were granted regular bail by this Court vide order dated 31.08.2021.

5. Learned APP submitted that the offence is serious. The applicants are named in the statement of the informant recorded under Section 164 of Cr.P.C. The statement of Fayaz Gayasbhai Shaikh dated 01.03.2021, it is mentioned that the applicants were present at the scene of offence. Aakash was carrying iron rod, Jagannath Padagale, Prasad Nehe, Mayur Chechare were carrying wooden logs. They were assaulting Kishor and Gaurav. Injured had died due to injuries. The offence is registered under Section 302 IPC.

6. The FIR is silent about the involvement of the applicants.

The applicants were known to the informant. Their names were reflected for the first time in the statement under section 164 of Cr.P.C. The statement was recorded on 13.01.2021. As far as applicants are concerned, in the improved version, it is alleged that Prasad Nehe gave rod to Amol Nehe and told him to assault complainant. It is vaguely stated that Akash, Mayur and Pandagale were assaulting them with rod and stick. Accused Nos. 2, 3 and 4 were arrested. They were granted bail by this Court vide order dated 31.08.2021. While granting bail it is observed that, fatal blow is given by Sachin. Post Mortem report shows that cause of death is Head injury. The said accused had allegedly caused contusions. They had not given blow on vital part of deceased. The weapons were recovered from spot. Statement of Rohan Dongre was recorded on 01.01.2021. He was narrated incident of assault by informant, immediately after incident. The informant had not referred to presence of applicants at scene of offence. Statement of eye witnesses Vithal Kadu and Vishwas Kadu were recorded on 01.01.2021. They have not referred to presence of applicants at the time of assault. The applicants do not have criminal antecedents.

7. Hence anticipatory bail can be granted to applicants.

ORDER

- (i) Anticipatory Bail Application No. 1286 of 2021 is allowed.
- (ii) In the event of arrest of the applicants in crime No. 2 of 2021, registered with Loni police station, Dist. Ahmednagar, the applicants be released on executing PR bond in the sum of Rs. 20000/- each, with one or more sureties in the like amount.
- (iii) The applicants shall report the Investigating Officer on 22.12.2021, 23.12.2021 and 24.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for.
- (iv) The applicants shall not tamper the evidence.
- (v) Application is disposed of.

(PRAKASH D. NAIK)
JUDGE

shp/-