

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2245 OF 2019

Sandeep Balasaheb Bhegde
and ors

.. Applicants

Versus

The State of Maharashtra

.. Respondent

...

Mr. Kamlesh Y. Mali for the applicants.

Mr. S.H.Yadav, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 4th SEPTEMBER 2021.

P.C:-

1 The applicants are admitted to interim protection by order dated 18th October 2019. It is nearly two years now and the interim protection still remain in force. The learned APP however, make a statement that the investigation is not yet complete. When asked, for what purpose, the custody of the applicants is required, it is informed that the weapon used in commission of the offence is yet to be recovered.

2 The applicants are arraigned as accused in C.R.No. 123 of 2019 which invoke Section 323, 325, 364, 504, 504, 143, 147, 148, 149 of the IPC. Today, the learned APP make a statement that even Section 326 of the IPC has been invoked.

Tilak

3 The medical certificate produced on record of the injured Kalpesh Marathe at a private hospital record two linear fracture lines of upper shaft of Tibia and one undisplaced fracture of shaft of Ulna. Assuming for a moment that the offence under Section 326 of the IPC gets attracted in the light of the injury certificate, the Application cannot be kept pending for two years since it is informed that the applicants had attended the police station on the given dates, in terms of the order dated 18th October 2019, and noting that it is a case of cross-FIR, the investigation must come to an end.

4 True it is, that though the weapon used in commission of offence is not recovered yet, merely on this ground the custody cannot be claimed. It is expected that the investigation of the offence is completed since the offence is registered in the year 2019, the custodial interrogation of the applicants is not warranted, merely for the purpose of recovery of weapon and taking into consideration that the offence under Section 326 of IPC is *prima facie* made out, by issuing further direction that the applicants shall report to the Investigating Officer on 13th 14th and 15th September 2021 between 2.00 pm to 5.00 p.m, the ad-interim order in favour of the applicants granted on 18th October 2019 is made absolute.

Application is allowed in the aforesaid terms.

SMT. BHARATI DANGRE, J