

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 460 OF 2021

Ashok s/o Dinkar Raut
..vs..
State of Maharashtra, thr. The Police Inspector

AND

CRIMINAL APPLICATION (ABA) NO. 456 OF 2021

Dinkar s/o Gyanuji Raut and two ors.
..vs..
State of Maharashtra, thr. The Police Inspector

AND

CRIMINAL APPLICATION (ABA) NO. 459 OF 2021

Pandurang s/o Dinkar Raut and two ors.
..vs..
State of Maharashtra, thr. The Police Inspector

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.S Ghanekar, Advocate with Shri S.P. Koli, Advocate with
Shri Raju Kadu, Advocate for applicants.
Shri A.M. Deshpande, A.P.P. for non-applicant/State in ABA
No.460 of 2021.
Shri M.J. Khan, A.P.P. for non-applicant/State in ABA No.459
and 456 of 2021.

CORAM : VINAY JOSHI, J.
DATED : 09/08/2021

Heard.

2. These bail applications arise out of Crime No.140 of 2021 registered with Lonar Police Station, District Buldhana for the offence punishable under Sections 143, 144, 147, 148, 149, 307, 324, 323 and

506 of the Indian Penal Code. By claiming innocence, false implication, old rivalry and inadequacy of evidence, pre-arrest protection has been claimed by applicants.

3. It is argued that injuries sustained to the injured in the occurrence, are of simple nature. It is pointed out that one of the co-accused Vilas Raut was arrested, from whom axe has been seized, whilst pre-arrest protection has been granted to two lady accused. Particularly it is canvassed that applicant Ashok Raut is a practicing Advocate and is staying at Aurangabad, who has no concerned with the agricultural dispute.

4. The non-applicant/State resisted bail application by filing separate reply-affidavits. The prosecution case in brief has been narrated in the reply. Furthermore, it is contended that applicants have assaulted complainant by means of dangerous weapon at the instance of land dispute. As an outcome of said assault, several persons got injured and particularly, injuries were on vital parts of the body. The Police have to seize weapons used in commission of offence and therefore, there is necessity of custodial interrogation.

5. At the instance of report lodged by one Rekha Aandhale dated 01.06.2021, the crime was registered.

There appears to be a long standing land dispute in between two parties. There was a civil litigation in between the parties, in which the informant party lost in first Court.

6. On the actual incident, it is stated that on 30.05.2021, in the afternoon, applicant Ashok Raut picked up quarrel at the instance of cutting of trees of the dyke. There was oral altercation in which applicant Ashok Raut telephonically called rest of the co-accused on the spot with sticks, iron rods, axes, etc. The informant stated that Applicant Ashok Raut dealt axe blows at the head of her husband Gopal Aandhale and brother-in-law Krishna, causing bleeding injury. So also, applicant Ashok Raut caused her to fall on the ground and then beat her at her chest. She stated that rest of the assailants beat the complainant party by means of sticks, fists blows and kicks.

7. The applicant have produced a copy of First Information Report bearing Crime No.141 of 2021 registered by them on the very day, after some time, for the offence punishable under Sections 143, 144, 147, 148, 149, 294, 323, 324, 326, 504 and 506 of the Indian Penal Code. In said First Information Report, there are allegations against the injured Gopal Aandhale, Krushna Aandhale and others, about the assault.

8. Perused the case diary and particularly, the injury certificates. It reveals that informant Rekha Aandhale sustained one contused lacerated wound at left parietal region along with two other abrasions. Informant's husband Gopal Aandhale sustained three contused lacerated wounds on left parietal region, right parietal region and right parietal temporal region. Likewise, injured Krushna Aandhale sustained contused lacerated wound at right parietal region along with three other injuries.

9. Perused the statement of injured witnesses who have stated about the assault at the hands of the applicant Ashok Raut and remaining applicants. Both injured Gopal and Krushna have specifically stated that the applicant Ashok assaulted them by means of sticks on their head. Thus, a *prima facie* case is made out against the applicant -Ashok Raut. As regards to other applicants are concerned, learned A.P.P. again took me through the statement of injured to impress that the specific role of rest of the applicants has been stated. In those statement, there is reference that applicant Pandurang Raut and Dnyaneshwar Raut were holding sticks, while applicant Vijay Raut used iron rod in the incident.

10. Contextually, I have re-visited the First Information Report which was the first version, soon-after the occurrence. In the entire First Information

Report, specific act of the applicant Ashok Raut has been narrated. But, there are general allegations against the rest of the applicants.

11. Having regard to all these aspects, the applicant Ashok Raut is not entitled for pre-arrest protection since his custodial interrogation is necessary. So far as, rest of the applicants are concerned, their liberty can be protected by directing them to join the course of investigation. In view of that following order :

(a) Criminal Application (ABA) No.460 of 2021 stands rejected.

(b) Criminal Application (ABA) Nos.459 of 2021 and 456 of 2021 stand allowed.

(c) In the event of arrest of applicants in Criminal Application (ABA) No.459 of 2021 namely 1.Pandurang s/o Dinkar Raut, 2. Vijay s/o Dinkar Raut, 3. Dnyaneshwar s/o Waman Raut and applicants in Criminal Application (ABA) No.456 of 2021 namely Dinkar s/o Gyanuji Raut, 2.Waman s/o Gyanuji Raut and 3. Parasram s/o Gyanuji Raut in connection with Crime No.140 of 2021 registered with Lonar Police Station, District Buldhana for the offence punishable under Sections 143, 144, 147, 148, 149, 307, 324, 323 and 506 of the Indian Penal Code, they be released on bail on furnishing P.R. bond of Rs.25,000/- each, with one surety in the like amount.

- (d) The applicants in Criminal Application (ABA) Nos. 459 of 2021 and 456 of 2021, shall attend concerned Police Station on every Sunday in between 11.00 am to 2.00 pm, till filing of the charge-sheet.
- (e) The Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE

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