

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

CRIMINAL APPLICATION (ABA) NO.700/2021

Satish Dinkar Wathore and ors

..VS..

State of Mah., thr.PSO Lonar, Through APP Lonar, Taluka Lonar, District
Buldhana

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

Court's or Judge's Order

.....
Shri S.V.Sirpurkar, Counsel for Applicants.
Shri V.A.Thakare, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : DECEMBER 09, 2021.

1. By this application under Section 438 of the Code of Criminal Procedure, applicants seek their pre-arrest bail since they are apprehending their arrest in connection with Crime No.235/2021 registered with Lonar Police Station, District Buldhana for offences punishable under Sections 326, 323, 504, and 506, read with Section 34 of the Indian Penal Code.

2. Heard learned counsel Shri S.V.Sirpurkar for applicants and learned Additional Public Prosecutor Shri V.A.Thakare for the State.

3. Learned Additional Public Prosecutor for the State has made available to this Court papers of investigation conducted by Investigating Officer.

4. First Information Report is lodged by Anil Prakash More, who is younger brother of injured Sandeep. From the First Information Report itself, it is clear that the

first informant is not eyewitness to incident and he lodged the report in view of information received from a son of injured Sandeep in respect of assault made on Sandeep by present applicants.

5. During course of investigation, Investigating Officer recorded statement of injured Sandeep. Investigation papers also contain injury certificate of injured Sandeep which show that in assault the injured has suffered fracture and he was required to be operated upon.

6. Learned counsel for applicants submits that applicants are falsely implicated in crime.

Whether they are implicated falsely in crime or not the said will have to be tested only during course of trial.

7. Statement of injured Sandeep shows that on 27.8.2021 in the night when his wife was suffering from high fever, he and his son Rahul went to doctor. When they were proceeding towards doctor, near bus stop, applicant No.2 Mahadu challenged him and assaulted by fist and kick blows in respect of earlier incident which occurred during noon time between Sandeep and applicant No.1 Satish. Statement of Sandeep further shows that applicant No.1 Satish assaulted brutally on him by means of heavy iron rod. Resulting into fracture of his legs. Due to the said, he fell down on the ground. After Sandeep fell down on the ground, Mahadu continued assaulting by means of stick on various parts of his body. It is stated in statement of Sandeep recorded under Section 161 that at that time applicant No.3 Sanjay and applicant No.4 Shivaji assaulted by means of fist and kick blows.

8. After considering rival submissions made before me and after considering reply as well as investigation papers, when the Court expressed its opinion that the Court is rejecting the application in respect of applicant No.1 Satish Dinkar Wathore and applicant No.2 Mahadu Dinkar Wathore, learned counsel Shri S.V.Sirpurkar for applicants submitted that permission be given to him to withdraw the application.

9. Looking to role attributed to applicant No.3 Sanjay and applicant No.4 Shivaji and looking to fact that they have already attended the police station and joined investigation, in my view, their bail application can be considered in their favour. Resultantly, I pass following order:

ORDER

(1) The criminal application is partly allowed.

(2) The application filed by applicant No.1 Satish Dinkar Wathore and applicant No.2 Mahadu Dinkar Wathore stands **rejected** as withdrawn. Since learned counsel for applicants is withdrawing the application, the Court is not giving detailed reasons as to why the application needs rejection.

(3) In the event of arrest of applicant No.3 Sanjay Sopan Wathore and applicant No.4 Shivaji Eknath Wathore, in connection with Crime No.235/2021 registered with Lonar Police Station, District Buldhana for offences punishable under Sections 326, 323, 504, and 506, read with Section 34 of the Indian Penal Code, they be released on bail on they

executing a P.R.Bond in the sum of Rs.25,000/- by each of them with one solvent surety of the like amount by each of them.

(4) Applicant No.3 Sanjay Sopan Wathore and applicant No.4 Shivaji Eknath Wathore are directed that they shall attend the police station as and when they are called by Investigating Officer for investigation and for that Investigating Officer shall give them a 48 hour written communication.

(5) Applicants shall not tamper with prosecution case and shall not extend any type of threat either to injured or the first informant or son of injured person.

With this, the criminal application is disposed of accordingly.

JUDGE

!! BRW !!
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WANKHEDE
Digitally
signed by
BHUSHAN
RANA
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