

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.26 OF 2022

YOGESH SHIVAJI MHASKE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.P. Patwardhan, Advocate for applicants

Mr. B.V. Virdhe, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 23rd FEBRUARY, 2022

PRONOUNCED ON : 25th MARCH, 2022

ORDER :

1 The applicants are apprehending their arrest in connection with Crime No.1159/2021 dated 06.12.2021 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad, for the offence punishable under Section 452, 324, 143, 148, 147, 149, 427, 506, 120-B, 150 of the Indian Penal Code, 1860, under Section 4, 25 of the Arms Act, 1959 and under Section 135 of the Maharashtra Police Act, 1951.

2 Heard learned Advocate Mr. R.P. Patwardhan for applicants and

learned APP Mr. B.V. Virdhe for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The First Information Report has been lodged by one Vimal Devidas Fulzalake on 05.12.2021 in respect of incident that had occurred at about 9.00 p.m. on the same day i.e. on 05.12.2021. It states about the earlier incident also, which had taken place at about 7.30 p.m. on 04.12.2021 and in respect of the earlier incident there was First Information Report. According to her, accused No.1's father had grudge about the earlier incident and, therefore, on the next day about 12 named persons and 10-12 unknown persons came with sticks, swords etc. Names of the present applicants are mentioned, however, it can be seen that there is no specific role attributed to the present applicants and to whom they have assaulted is not made clear. The police papers would also show that statements of certain witnesses have been recorded but they are also stating about the presence of the present applicants but without assigning any specific role to the present applicants. Even the CCTV footage has been collected, for which panchnama has been drawn. However, in the transcript panchnama it is only stated that certain persons were proceeding holding sticks but they have not been identified. With such kind of evidence collected uptill now case is made out for the exercise of powers of this Court under Section 438 of the Code of Criminal

Procedure. This Court had granted interim protection to the applicants by order dated 12.01.2022. The same deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 12.01.2022, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicants viz. **1) Yogesh Shivaji Mhaske, 2) Irfan Khayyum Shaikh, 3) Santosh Suresh Gajbhiv, 4) Sunil Raghunath Shejwal and 5) Sagar Sanjay Ubale**, in connection with Crime No.1159/2021 dated 06.12.2021 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad, for the offence punishable under Section 452, 324, 143, 148, 147, 149, 427, 506, 120-B, 150 of the Indian Penal Code, 1860, under Section 4, 25 of the Arms Act, 1959 and under Section 135 of the Maharashtra Police Act, 1951, they be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They shall co-operate with the investigation and should attend concerned Police Station on every Monday, Wednesday and Friday between 10.00 a.m. to 02.00 p.m., till filing of the charge sheet.

(Smt. Vibha Kankanwadi, J.)

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