

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

938 BAIL APPLICATION NO.134 OF 2022

1. Nishant S/o Bhaiyalal Jaiswal
Age: 26 years, Occu: Business
R/o: Lokasha Nagar, Jintur Road,
Parbhani

2. Pankaj S/o Ajay Jaiswal
Age: 19 years, Occu: Education,
R/o: Takali (Ku), Taluka and
District Parbhani

3. Savidhan s/o Sampatrao Maske
Age: 21 years, Occu: Labour
R/o: Nehru Nagar, Jintur Road,
Parbhani

4. Yuvraj S/o Balasaheb Kokate
Age: 22 years, Occu: Labour
R/o: Near B. Raghunath College,
Taluka and District Parbhani

... Applicants

Versus

The State of Maharashtra
Through New Mondha,
Police Station, Parbhani

... Respondent

...

Mr. N. S. Ghanekar, Advocate for the Applicants
Smt. R. P. Gour, APP for the Respondent

...

CORAM : M. G. SEWLIKAR, J.

DATE : 17th February, 2022

PER COURT :

Heard.

2. It is alleged that the informant who is an Officer in the Excise Department along with staff has visited the shop of the father of applicant No.1. They were checking the accounts. At that time, applicants assaulted them. They abused and beat the informant and his employees, namely, Rahul Chavan, Balaji Kachave. Accused–Nishant Jaiswal broke the mobile worth Rs.10,000/- of the informant by banging it on the floor. Accordingly, First Information Report came to be lodged against the present applicants.

3. Shri Ghanekar learned counsel for the applicants submits that the informant had been to the shop of applicant No.1. However, the informant himself was aggressive and abused the father of the applicant No.1. He submits that when the father of applicant No.1 and applicants objected to this conduct of the informant, the informant assaulted the applicants and father of applicant No.1. The informant called the police. Police also beat the applicants and father of applicant No.1. Applicants did not assault the informant. However, they have been falsely implicated in this case.

4. Smt. Gour learned APP submits that the informant himself has been injured in the assault. She submits that during checking, the applicants

entered the shop, snatched the account books and did not permit the informant and his employees to discharge their duties. She submits that applicant No.1 broke the mobile of informant. One case is pending against him under Section 65-E of the Maharashtra Prohibition Act. She submits that applicant No.2 – Pankaj was released on bail on the very day and he committed an offence under Section 353 of the Indian Penal Code. Therefore, both of them may not be granted bail. She submits that as far as applicant Nos.3 & 4 are concerned, they assaulted the informant and his employees. Therefore, they are also not entitled to be released on bail.

5. On perusal of the investigation papers, it is seen that the offence registered against the applicants are 353, 332, 143, 147 and 427 of IPC. So far as applicant No.2 – Pankaj is concerned, when this Court expressed its disinclination to grant any relief to applicant No.2 – Pankaj, learned counsel Shri Ghanekar sought permission to withdraw the application. Application is disposed as withdrawn to the extent of applicant No.2.

6. Offence is not punishable with death or imprisonment for life. Offence under Sections 353 and 332 are punishable with imprisonment for five years. Applicant Nos.3 & 4 are behind the bars since the date of the offence i.e. for 38 days. Charge-sheet is yet not filed. Applicant No.1– Nishant does not have any history of assaulting the public servant. This is

first offence of this nature. So far as applicant Nos.3 & 4 are concerned, no offence is registered against them except the present one. In this view of the matter and that applicants are residents of Parbhani and they are not likely to flee from justice, I am inclined to release the applicants on bail. Hence, the following order:

ORDER

- i) Application is allowed to the extent of applicant nos.1, 3 & 4.
- ii) Applicant Nos.1,3 & 4 be released on bail on PR Bond of Rs.15000/- each (Rupees Fifteen Thousand Only) with one solvent surety each in the like amount in connection with Crime No.16/2022 registered with New Mondha Police Station, District Parbhani, for the offences punishable under Sections 353, 332, 143, 147, 149 and 427 of the Indian Penal Code, on condition that they shall not pressurize the witnesses and shall attend the concerned Police Station as and when required.
- iii) Application of applicant No.2 is disposed as withdrawn with liberty to move the trial Court for bail after filing of charge-sheet.

7. These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion.

(M. G. SEWLIKAR, J.)