

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.160 OF 2022

1. Dnyaneshwar Ramrao Bhabad
 2. Ashruba Ramrao Bhabad
 3. Tukaram Ashruba Bhabad
 4. Dinesh Ashruba Bhabad
- ... Applicants

Versus

The State of Maharashtra

... Respondent

...

Mr. P. R. Nangare, Advocate for applicants.

Mr. A. M. Phule, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11.03.2022

ORDER :-

1. The applicants are apprehending their arrest in connection with Crime No.583 of 2020 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 143, 147, 148, 149, 188, 269, 270 of Indian Penal Code and under Section 11 of Maharashtra Covid-19 Regulation, 2020 and under Section 2, 3, 4 of Epidemic Decease Act and under Section 51-B of Disaster Management Act.

2. Heard learned Advocate Mr. P. R. Nangare for the applicants and learned APP Mr. A. M. Phule for the respondent – State. In order to cut

short, it can be said that both of them have made submissions in support of their respective contentions.

3. FIR has been lodged by one Ganesh Shivdas Bhabad on 08.08.2020 for the incident that had allegedly taken place at about 6.00 p.m on 07.08.2020. According to him, his land is near the land of applicant Nos.1 and 2. When he was sitting on a raised platform in front of his house at about 6.00 p.m. on 07.08.2020, nine accused persons came and started saying that he should not allow his cattle to graze in common agricultural land. He then asked that when the land is common why they are resisting him. Those persons got annoyed and started beating him with kicks and fists. Applicant No.3 - Tukaram assaulted him by scythe near his right wrist and right ear causing severe injury. Applicant No.1 – Dnyaneshwar tried to assault him by axe on his head. His brother and mother had tried to intervene, but they were abused and kicked. Accused – Bhimabai had then assaulted the informant on his back and legs with stick causing covert injury. Applicant No.4 – Dinesh assaulted the brother of the informant by scythe on left hand. Applicant No.2 had assaulted mother of the informant by axe causing injury to her head. They gave threat to the informant and his relatives. Informant was treated at Rural Hospital, Pathardi and then he and his mother were sent to Nobel Hospital, Nagar.

4. The police papers show that the statements of witnesses have been recorded. Some of them are the eye witnesses. The injury certificate of informant – Ganesh given by Sub-District Hospital, Pathardi would show that he had sustained head injury, but then it is stated that he was referred to Nagar Civil Hospital. Same is the case with his brother and mother. Nature of the injury has not been stated in those certificates, but then certificate issued by Asian Nobel Hospital Private Limited in respect of the mother of the informant says that she has sustained one injury which was simple in nature. So also, the nature of the injury sustained by the informant is simple. Interestingly, informant's statement has been recorded under Section 164 of the Code of Criminal Procedure by learned Judicial Magistrate First Class, Pathardi and if we see the said statement, no doubt he says about the assault, but does not attribute specific act to each of the accused. He then states that accused No.1 had assaulted his mother by sword. The mother states that she was assaulted but then does not give the particulars and at one place she says that after assault she became unconscious and would not be able to say what had happened. Further, she says that she was assaulted by accused No.1 with axe. The other two witnesses are also stating something different than their statement under Section 161 of the Code of Criminal Procedure. Therefore, with this material, case is made out

to exercise extraordinary powers of this Court under Section 438 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of applicants viz., (i) Dnyaneshwar Ramrao Bhabad, (ii) Ashruba Ramrao Bhabad, (iii) Tukaram Ashruba Bhabad and (iv) Dinesh Ashruba Bhabad in connection with Crime No.583 of 2020 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 143, 147, 148, 149, 188, 269, 270 of Indian Penal Code and under Section 11 of Maharashtra Covid-19 Regulation, 2020 and under Section 2, 3, 4 of Epidemic Decease Act and under Section 51-B of Disaster Management Act, they be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.
- III) The applicants shall remain present before the Investigating Officer as and when called and cooperate with the investigation.
- IV) They shall not tamper with the evidence of the prosecution, in any manner.
- V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm