

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.262 OF 2022

1. Bappasaheb Dattu Dhakne
2. Sau. Kantabai @ Kuntaba Bappusaheb Dhakne ... Applicants

Versus

1. The State of Maharashtra
2. The Police Inspector,
Shevgaon Police Station,
Dist. Ahmednagar ... Respondents

WITH
CRIMINAL APPLICATION NO.1025 OF 2022

...

Mr. N. D. Batule, Advocate for applicants.

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

Mr. D. R. Jaybhar and Mr. S. D. Jaybhar, Advocate for original informant.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 29.03.2022

ORDER :-

1. Criminal Application No.1025 OF 2022 filed by the original informant seeking permission to assist learned APP stands allowed and disposed of.

2. The applicants are apprehending their arrest in connection with Crime No.47 of 2022 registered with Shevgaon Police Station, Dist. Ahmednagar for the offence punishable under Sections 341, 326, 324,

504, 506 read with Section 34 of Indian Penal Code.

3. Heard learned Advocate Mr. N. D. Batule for the applicants and learned APP Mr. A. M. Phule for the respondents – State well assisted by learned Advocate Mr. D. R. Jaybhar for the original informant. In order to cut short, it can be said that they have made submissions in support of their respective contentions.

4. Perusal of the FIR would show that informant Ashok Babasaheb Dhakne has given the said FIR on 25.01.2022 in respect of an incident that had taken place at about 7.00 a.m. on 24.01.2022. At this stage, we may not go into the aspect that there is delay in lodging the FIR, because the delay can be explained at later point of time also. He says that when he was proceeding for bringing medicine for his mother, he was obstructed by applicant No.2 and she started saying that when they had assaulted earlier. This appears to be in reference to some earlier incident and may be that the informant would have lodged report in respect of that incident. Informant then says that applicant No.2 was along with applicant No.1 and their son Ajinath. They had pulled the informant from motorcycle and then applicant No.1 assaulted him with the wooden handle of the axe on the left leg of the informant causing him injury. Son of the applicants is stated to have assaulted him by

wooden stick and applicant No.2 is also stated to have assaulted the informant with stick on his back and head. Informant then says that since he felt giddiness and fell down, the accused persons left spot while abusing him. Informant was then taken to hospital.

5. Perusal of the injury certificate would show that the informant had received in all six injuries. Five out of them are simple in nature and only the sixth injury i.e. blunt trauma over left hand, which appears to have caused fracture to the base of fifth metacarpal bone, is stated to be grievous. Whether this kind of injury would invoke Section 326 of Indian Penal Code is a question. The custodial interrogation of the applicants appear to be not required. The previous enmity is also a ground to be considered. The enmity can be seen from the fact that offence vide Crime No.07 of 2022 registered with Shevgaon Police Station, Dist. Ahmednagar for the offence punishable under Sections 324, 323, 504 and 506 of Indian Penal Code on 01.01.2022 came to be registered on the basis of the FIR lodged by present applicant No.2 against the informant and two other persons. Further, non cognizable offence also appears to have been lodged against the informant.

6. When no case is made out for custodial interrogation, the extraordinary powers of this Court will have to be utilized in favour of

the applicants as their liberty deserve to be protected. The interim protection granted earlier by this Court on 07.03.2022 to the applicants deserve to be confirmed. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The interim protection granted earlier by this Court on 07.03.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicants - i) Bappasaheb Dattu Dhakne and ii) Sau. Kantabai @ Kuntaba Bappusaheb Dhakne in connection with Crime No.47 of 2022 registered with Shevgaon Police Station, Dist. Ahmednagar for the offences punishable under Sections 341, 326, 324, 504, 506 read with Section 34 of Indian Penal Code, they be released on P.R. of Rs.30,000/- each with two solvent sureties of Rs.15,000/- each.
- III) Applicant No.1 to attend Police Station Shevgaon, Dist. Ahmednagar on every Tuesday and Friday in between 10.00 a.m. to 01.00 p.m.
- IV) Applicants shall not tamper with the evidence of the prosecution in any manner.
- V) Applicants shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]