

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 ANTICIPATORY BAIL APPLICATION NO.284 OF 2022
WITH
CRIMINAL APPLICATION NO.1003 OF 2022

BHAUSAHEB DATTATRAYA NIKAM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. V.R. Dhorde, Advocate for applicants

Mr. V.M. Kagne, APP for the respondent

Mr. R.P. Patwardhan, Advocate assist to PP

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23rd MARCH, 2022

ORDER :

1 Criminal Application No.1003 of 2022 moved for assist to PP stands allowed and disposed of.

2 The applicants are apprehending their arrest in connection with Crime No.60/2022 dated 23.01.2022 registered with Newasa, Dist. Ahmednagar, for the offence punishable under Section 307, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. V.R. Dhorde for applicants, learned

APP Mr. V.M. Kagne, well assisted by learned Advocate Mr. R.P. Patwardhan for the informant. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 Perusal of the First Information Report that has been lodged by one Sambhaji Ramnath Nikam on 23.01.2022 is in respect of incident alleged to have been taken place at about 9.00 a.m. on the same day. It is stated that when he was doing agricultural activity of sowing onion crop in his land, at that time, applicant No.2 went along with Tractor in his field and was causing damage. Informant started asking as to why he is causing damage to the crops as well as pipeline. According to the informant, applicant No.2 got annoyed and called his relatives. Four persons came i.e. Dattatraya Nikam, Bhausaheb Nikam, Prakash Nikam and Kisan Nikam. Out of them Bhausaheb is before this Court along with the applicant No.2. Informant says that all of them had abused him and started him assaulting by kicks and fist blows. Dattatraya assaulted him by axe on his head with an intention to kill. Applicant Nos.1 and 2 thereafter had assaulted the informant by iron rod and the blow was received by the informant on his back, chest, legs and hands and caused covert injury. When he was being rescued by his parents and two brothers, they were also assaulted and threatened.

5 The police papers would show that the injury certificate of the

informant shows two injuries; one is Contused Lacerated Wound over left frontal region above forehead 4 x 1 c.ms. and it is stated that object used is axe and the nature of the injury is stated to be simple, second injury is abrasion over left forearm and the nature is simple. Axe injury is attributable to accused Dattatraya, who is not before this Court. Informant's mother Mandabai has also received two injuries. Both of them are simple in nature. Father has received three injuries and all injuries are simple in nature. Brother Shivaji has received two injuries; one is simple and second is contusion over right knee and it is stated to be grievous. No other description is given for this injury, then, how it can be said to be grievous, is a question, because in other certificates contusions are stated to be simple. Another brother Somnath has also received two injuries and nature of them are simple. There is one certificate issued by Sant Dnyaneshwar Speciality Hospital and Intensive Care Unit, Newasa Fata, Newasa, which is in respect of witness Shivaji and there it is stated that he has sustained fracture injury to right knee joint. If this was considered by the Medical Officer while issuing the said certificate, which states it to be grievous, then why it was only mentioned as contusion, is also a question. But even if it is taken that Shivaji had sustained fracture, the custodial interrogation of the applicants is not necessary. Making them available for the investigation would suffice. Hence, the application deserves to be allowed. Accordingly, it is allowed. Hence,

following order.

ORDER

- 1 Application stands allowed.
- 2 In the event of arrest of the applicants viz. 1) **Bhausahab Dattatraya Nikam** and 2) **Ajinath Krushna Nikam @ Adinath Kisan Nikam**, in connection with Crime No.60/2022 dated 23.01.2022 registered with Newasa, Dist. Ahmednagar, for the offence punishable under Section 307, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860, 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.
- 5 Criminal Application No.1003 of 2022 stands disposed of.

(Smt. Vibha Kankanwadi, J.)