

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

938 ANTICIPATORY BAIL APPLICATION NO.456 OF 2022

YOGESH RAJENDRA SHELAR AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.E. Shekade, Advocate for applicants

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

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 05<sup>th</sup> MAY, 2022

**PER COURT :**

1 Applicants are apprehending their arrest in connection with Crime No.110/2022 dated 23.03.2022 registered with Jamkhed Police Station, Dist. Ahmednagar, for the offence punishable under Section 326, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.E. Shekade for the applicants and learned APP Mr. V.M. Kagne for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of the First Information Report lodged by one Aditya

Somnath Gaikwad would show that the applicant No.1 had used fighter and he says that the blow was received by him on his nose. He sustained bleeding injury. Learned APP submits that the said blow has caused fracture to the nasal bone of the informant, which is a grievous injury. Therefore, taking into consideration the said specific allegations, when disinclination is shown to grant any relief to the applicant No.1, the learned Advocate appearing for the applicants submits, on instructions, that he would withdraw the application as against the applicant No.1.

4           As regards the applicant No.2 is concerned, the contents of the First Information Report would show that apart from abusing the applicant No.2 had assaulted the informant by kicks and fist blows. It would attract at the most Section 323, 504 of the Indian Penal Code for his individual act. For making him responsible for the act done by the applicant No.1, attracting Section 326 of the Indian Penal Code, the prosecution will have to show that there was common intention. Though it is stated that the present applicants as well as one unknown person had gone together to the spot and then the incident had taken place, it will not *per se* attract Section 34 of the Indian Penal Code. Further, the custodial interrogation of the applicant No.2 will not be then necessary and, therefore, he deserves to be granted protection. Hence, following order.

**ORDER**

1            Application stands disposed of as withdrawn in respect of applicant No.1.

2            Application stands allowed in respect of applicant No.2.

3            In the event of arrest of the applicant No.2 viz. **Ramesh Rajendra Shelar**, in connection with Crime No.110/2022 dated 23.03.2022 registered with Jamkhed Police Station, Dist. Ahmednagar, for the offence punishable under Section 326, 323, 504, 506 read with Section 34 of the Indian Penal Code, he be released on P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of Rs.20,000/- (Rupees Twenty Thousand only).

4            Applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

5            He shall cooperate with the investigation and shall remain present before the Investigating Officer on every Monday, between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

( Smt. Vibha Kankanwadi, J. )