

(1)

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

914 ANTICIPATORY BAIL APPLICATION NO.731 OF 2022

1. Atmaram Bajirao Dhas,
2. Navnath Bajirao Dhas,
3. Anand Kailas Dhas,
4. Kailas Dada Dhas .. Applicants

Versus

1. The State of Maharashtra
- 2 X.Y.Z. .. Respondents

Ms. Sunita G. Sonawane, Advocate for applicants;
Mr. A. A. Jagatkar, A.PP. for respondent No.1;
Mr. Sandeep D. Munde, Advocate holding for Mr. Ganesh A. Rathod,
Advocate for respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 20th July, 2022

PC.

1. Heard the learned counsel for the applicants, the learned APP for the respondent No.1/State and the learned counsel for respondent No.2/victim.
2. The learned counsel for the applicants did not press application for the applicants No. 1 and 2 since they have been arrested.
3. The learned counsel for the applicants has argued that the allegations against the applicants No. 3 and 4 are that they have simply beat the informant with fists and blows. Except these

(2)

allegations, there is nothing against the applicants No.3 and 4. The serious allegations were made against the applicants No.1 and 2. Therefore, the custodial interrogation of the applicants No. 3 and 4 may not be essential.

4. The learned APP would submit that though it has been alleged against the applicants No. 3 and 4, there are antecedents to their discredit, the police do not have such details. However, the offence is serious. Hence, custodial interrogations of the applicants No. 3 and 4 is required.

5. The learned counsel for respondent No.2 has vehemently argued that deadly weapons like country pistol, sword have been used and the *Mangalsutra* has been snatched. Subsequently, offence under the provisions of Protection of Children from Sexual Offences Act has been added in the crime. The applicants were present on the spot of incident. They have shared the common intention. Hence, they are equally liable for punishment. Merely not using the weapon is no ground to release the applicants on anticipatory bail. He strongly opposed the application and prayed to dismiss the application.

6. Perused the papers along with the documents submitted by the applicants. In the first information report, it has been alleged against

(3)

the applicants No. 3 and 4 that they have abused the husband of the complainant and gave him kicks and blows. Except this, there are no allegations against the applicants No. 3 and 4. The prosecution has no material to show that there are antecedents to the discredit of the applicants No. 3 and 4. Considering the role played by the applicants No. 3 and 4, this Court is of the view that no purpose would be served allowing the prosecution to have the custodial interrogation of the applicants No. 3 and 4. The application deserves to be allowed. Hence, the following order -

- i) The application of applicants No. 3 and 4 is allowed.
- ii) In the event of arrest, the applicants No. (3) Anand Kailas Dhas and (4) Kailas Dada Dhas, be released on bail on furnishing PB and SB of Rs.15,000/- each with one solvent surety of the like amount, in C.R. No. I-165 of 2022, registered with Belwandi Police Station, Taluka Shrigonda, District Ahmednagar, for the offence punishable under Sections 143, 147, 148, 341, 327, 354, 323, 504, 506 of the Indian Penal Code and Section 3/25 of the Arms Act; on the condition that they shall attend the police station as and when called on written notice and shall not tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

amj