

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.824 OF 2022

1. Ganesh s/o. Vijaykumar Gapat,
2. Nilesh Bapu Chopde,
3. Bhimashankar Madhukar Mane
4. Yogesh s/o. Bapu Chopade,
5. Sundar s/o. Atmaram Parde,
6. Hinduraj s/o. Dilip Gapat
7. Rushikesh s/o. Yuvraj Gapat,
8. Sanjay Dattu Parde .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr. R. R. Karpe, Advocate holding for Mr. Sanjay A. Nandure,
Advocate for the Applicants

Mr. A. A. Jagatkar, APP for Respondent / State

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ANTICIPATORY BAIL APPLICATION NO.819 OF 2022

1. Ganesh Jyotiram Kore,
2. Satyawar Baliram Gapat,
3. Nitin Bharat Pawar .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr. Satej S. Jadhav, Advocate, holding for Mr. Sagar S. Phatale,
Advocate for Applicants

Mr. A. A. Jagatkar, A.P.P. for Respondent / State

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CORAM : S. G. MEHARE, J.

DATE : 29-08-2022

PER COURT :-

Heard the learned counsel for the applicants and the learned
APP for the respondent/State.

2. The applicants have a case that the allegations levelled against them are apparently false and only to counter the first information report lodged against the husband of complainant. The incident happened on 04.06.2022. The husband of the complainant had seriously assaulted three persons. He was arrested in that crime and produced before the learned Magistrate after MLC. He has also referred to the remand papers and point out that in the remand papers, there were no injuries on his person. A false report has been lodged against the applicants. Most of them were not present on the spot of the incident. Since the allegations are false and no injury was caused, the applicants' custodial interrogation is not required.

3. The learned A.P.P. has made a statement that during the course of investigation it has been transpired that applicant No.2 in ABA/819/2022, namely, Satyawar Baliram Gapat and applicant No.4 Yogesh Bapu Chopda, in ABA/824/2022, were at Pune, at the relevant time. The investigating officer has submitted the report in that regard. He has also placed on record the MLC certificate of the injured Vishal, which goes to show that there was simple injury caused by hard and blunt object. He would submit that the riot was committed by both the sides i.e. applicants and the complainant. They have disturbed the law and order in the village. Therefore, the applications may be dismissed.

4. So far as the applicants Yogesh Chopade and Satyawan Gapat are concerned, it has been transpired that they were not on the spot of the incident. This creates doubt about happening of the incident. The report is lodged after two days of the alleged incident. The injured Vishal Ankush Kumbhar has been examined on 07.06.2022 and injury to his left arm was noticed by the Medical Officer. It has been mentioned that the injury has been caused by hard and blunt object.

5. The PCR report reveals that pre-arrest general examination of the arrested accused was done. However, it is not clear whether the accused were medically examined before producing them before the learned Magistrate. The papers produced by the learned A.P.P. reveal that the Investigating Officer sent the letter to the Medical Officer on 07.06.2022 requesting him to examine the accused Vishal Ankush Kumbhar, who has been allegedly assaulted by the applicant. The Medical Officer opined that the injury to left arm of the injured may be caused by the hard and blunt object. The present report has been filed on 06.06.2022. It is delayed by two days, and thereafter, the police examined the injured Vishal Kumbhar on 07.06.2022. Between the gap of the two days, whether the injured had any injury is the question ? The prosecution has no evidence to that effect. The injuries sustained to the injured are not grievous. The report lodged against the injured reveals that the injured and another

co-accused went to the place where the injured went to switch on the R.O. plant. Assailants have also broken the windows of the house of one Shobha Parade. They have also trespassed the house. It seems that there was political rivalry between the two groups. However, implicating the persons not on the spot of the incident shows that it is after thought report. The prosecution has no evidence that on the day of arrest of the accused, he had any injuries on his person. The possibility of causing injury in the assault made by the applicant or by the injured also cannot be ruled out. Since the Investigating Officer has not done the investigation in correct direction, the benefit would go to the applicant. In view of the facts of the case and the discussion made here-in-above, the applications deserve to be allowed. Hence, the following order:-

- i) Both the applications are allowed.
- ii) The interim protection granted to the applicants by order dated 05.07.2022 is confirmed on the same terms and conditions of the bail with additional condition to attend the police station as and when called by the Investigating Officer on written notice.

(S. G. MEHARE)
JUDGE

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