

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.986 OF 2022
WITH APPLN/2910/2022 IN ABA/986/2022

KUNDLIK TUKARAM TANPURE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sanjay D. Kotkar
APP for Respondent : Ms. V. S. Choudhari
Advocate to assist the A.P.P. : Mr. R. N. Jadhav
...

CORAM : S. G. MEHARE, J.

DATE : 06-09-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The learned counsel for the applicants would argue that applicant No.1 Kundlik is suffering from paralysis and he is unable to assault with weapon. However, he has been falsely implicated in the crime. Since he is unable to assault, the allegation of assault with iron sickle is apparently false. A medical certificate to that effect is produced on record. The learned A.P.P. was asked to verify the fact whether the on the day of the incident the applicant was unable to stand and use the weapon. She has taken specific instructions on this fact from the Investigating Officer. The learned

A.P.P. and the learned counsel assisting her have made a statement at bar that on the day of the incident, the applicant No.1 Kundlik was able to walk and use the weapon. He has suffered mild attack long back in the year 2018. A specific allegation has been levelled against him that he assaulted the injured with iron sickle and the said weapon is yet to be recovered.

3. Perused the papers. No doubt, there is evidence that the applicant No.1 is suffering from paralysis. He had undergone treatment at Sanap Hospital, Ahmednagar. He was again admitted to hospital from 13.08.2019 to 16.08.2019. The applicant did not file certificate indicating that he is totally unable to walk and stand. He may have some cerebro-vascular difficulty, but on the basis of medical certificate it can not be accepted that he was unable to walk and use the weapon. The serious allegations have been levelled against him that he assaulted the injured with iron sickle on his head. There are injury certificates with the prosecution. However, four sickles have been seized.

4. The learned A.P.P. has rightly pointed out that though the weapons have been recovered, a wooden log is yet to be recovered and trace evidence is to be collected. Hence, custodial interrogation of the applicant is required.

5. So far as applicant Nos. (2) Vimalbai and (3) Hirabai are concerned, their role is restricted. Nothing is to be recovered from them. They have allegedly assaulted with wooden log, which has been seized. Hence, the following order :-

- i) The application is partly allowed.
- ii) The application of applicant No.1 Kundlik s/o. Tukaram Tanpure stands dismissed.
- iii) The *interim* protection granted to the applicant Nos. (2) Vimalbai Nanabhau Wagh and (3) Hirabai Bhaurao Wagh, by order dated 27.07.2022, is confirmed on the same terms and conditions.
- iv) For the reasons stated in the application, application No. 2910 of 2022 in A.B.A. No. 986 of 2022 is allowed.

**(S. G. MEHARE)
JUDGE**

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