

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1253 OF 2022

RUPABAI W/O. UKHA PATIL (PAWAR) AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Mr. S. R. Shirsat h/f. Ms. Alka T. Shelke
APP for Respondent : Mr. K. S. Patil

CORAM : S. G. MEHARE, J.

DATE : 06-10-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent.
2. The facts have been discussed in detail in the order dated 19.09.2022. The learned counsel for the applicant referred to the first information report and would submit that the first information report is silent about the assault by applicant No.2 Ukha s/o. Budha Patil (Pawar). However, the allegations against the applicants Rupabai and Vimalbai are that they threw the chilly powder. However, the prosecution has no evidence that the chilly powder was found on the person of injured or the other person present there. He would also submit that the complaints were lodged against the complainant and his family because Ukha Patil had lodged the complaints against the first informant about corruption and illegalities, when he was Sarpanch. The present report has been lodged falsely against all the family members.

Considering the role attributed to the applicants as alleged, there is no evidence against them. Hence, they may be released on anticipatory bail.

3. The learned A.P.P. has opposed the application contending that the offence is serious. The injured Sandip has received multiple injuries including nasal fracture. He would fairly concede that the Investigating Officer did not supply him the document showing that there were chilly powder particles on the person of the injured or on his cloth.

4. Perused the first information report and the other documents filed by the prosecution as well as applicants. The first information report does not disclose the role played by applicant Ukha. The prosecution has no evidence of chilly powder used in the crime. It is also not alleged against them that they have used the weapon and caused the injury to any of the person from the opposite group. In view of the facts of the case, the Court is of the view that the prosecution has no good case for custodial interrogation of the applicants. Hence, the following order :-

- i) The application is allowed.
- ii) The order dated 19.09.2022 granting interim protection to the applicants is confirmed on the same terms and conditions with additional condition to attend the police station as and when called by the Investigating Officer on written notice.

(S. G. MEHARE)
JUDGE