

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 ANTICIPATORY BAIL APPLICATION NO.1531 OF 2021

SANDIP GOPINATH BHALERAO AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Salunke Sudarshan J.

APP for Respondent-State : Mr. N. T. Bhagat

...

CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 07-01-2022

PER COURT :

1. At the outset, learned Advocate for the applicants prays for leave to correct the name of applicant No.2.
2. Leave is granted.
3. Correct the middle name of applicant No.2 immediately.
4. After the disinclination is shown to grant any relief to applicant No.1/accused No.4, Advocate for the applicant seeks withdrawal of the application as against him.

5. The applicant No.2 is apprehending his arrest in connection with Crime No.369 of 2021, dated 15-10-2021, registered with Purna Police Station, District Parbhani, for the offence punishable under Section 307, 326, 427, 143, 147, 148, 149, 506 of the Indian Penal Code and 135 of the Maharashtra Police Act, 1951.

6. Heard learned Advocate Mr. S. J. Salunke for the applicants and learned APP for respondent-State.

7. Perusal of the First Information Report lodged by the informant injured Ram Ashokrao Kadam would show that it is in respect of alleged incident that had taken place around 08.50 p.m. on 13-10-2021. So apparently there is delay in lodging the First Information Report. Further, as regards applicant No.2 is concerned, though his presence has been shown omnibus act has been stated that he had assaulted along with other seven persons to the informant with either iron rod or stick. Statement of the another eye-witness injured recorded on 02-11-2021 namely that of Vishnu, who is the brother of the informant, would also show that no specific act has been attributed to applicant No.2 though his presence has been shown. Though it can be taken that the informant has received grievous injuries to his vital part, taking into consideration the role

attributed, applicant No.2 deserves to be released on bail. Another fact also required to be noted is that the statement of one of the eye-witness would disclose that the present applicant was holding wooden stick. Medical certificate of the informant would give three injuries. Two are abrasions and the third is fracture to olecranon right. It cannot be said to be the injury of life threatening. However, it requires further medical evidence to bring it under Section 307 of the Indian Penal Code. However, another injured i.e. Vishnu had received injury to his head and that may cover Section 307 of the Indian Penal Code, but none of the above referred witnesses have stated that applicant No.2 had assaulted Vishnu.

8. Learned APP is also objecting the application on the ground that applicant No.2 has criminal antecedents. Offence vide Crime No.57 of 2019 has been registered against him. It is registered with Hatta Police Station, District Hingoli, for the offence punishable under Section 353, 332, 394, 506 read with 34 of the Indian Penal Code. In the police papers copy of the First Information Report has been given, but perusal of the same would show that *per se* name of the present applicant No.2 was not mentioned in the First Information Report. But in the register it appears that after the

investigation it was transpired that he is involved. The said offence appears to be on a different footing. It is lodged by the employee of MSEDCL who was then objected by one Jalinder Jagannath Bhalerao and main acts are attributed to Jalinder Jagannath Bhalerao, and it is stated that the informant was also assaulted by Jalinder's sons and it was in respect of recovery of the outstanding electricity bill amount. It cannot be taken as a circumstance to reject the bail application of applicant No.2. With these observations, following order is passed.

ORDER

1. The application stands dismissed as withdrawn as against applicant No.1.
2. Application stands allowed in respect of applicant No.2.
3. In the event of arrest of the applicant No.2 Nagesh s/o Jalindar Bhalerao, in connection with Crime No.369 of 2021, dated 15-10-2021, registered with Purna Police Station, District Parbhani, for the offence punishable under Section 307, 326, 427, 143, 147, 148, 149, 506 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951, he be released on P.R. of Rs.50,000/- (fifty thousand) with two sureties of Rs.25,000/- each (twenty five thousand).

4. The applicant No.2 shall not indulge himself in any criminal activity.

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

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.