

Nitin Tanaji Harale and Another	...Applicants
vs.	
The State of Maharashtra	...Respondent

VISHAL
SUBHASH
PAREKAR

Date: 2022.06.18
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DATE : JUNE 15, 2022

1. This application is preferred for pre-arrest bail in C.R. No.114 of 2021 registered with Shivaji Nagar police station for the offences punishable under sections 394, 324, 336, 427, 504 read with 34 of Indian Penal Code, 1860 for having robbed the first informant and assaulted him by means of dangerous weapons.

2. The indictment against the applicants is that on 26th February, 2021 at about 10 pm while Dr. Vivek Banne, the first informant was on his way to home, at Kabnur nala, near the house of Ligade, few persons broke the rear windshield of the car. After the first informant came out of the car the applicant, son in law of Tanaji Harale and one unknown person assaulted him by means of sticks and he was robbed of a gold chain, mobile phone and cash

amount of Rs. 5,000/-.

3. By an order dated 15th April, 2021 this Court has granted interim pre arrest bail to the applicants, having noticed that the wife of the applicant No. 1 had lodged a report against the first informant of outraging her modesty leading to registration of C.R. No. 49 of 2021 for the offence punishable under section 354 of the Penal Code. The Court was of the prima facie view that the question as to whether the applicants committed robbery, as alleged, was debatable.

4. I have heard Mr. Mundargi, learned senior counsel, for the applicant and Ms. Tidke, learned APP for the State.

5. The learned senior counsel for the applicant, in the backdrop of the nature of the occurrence, urged that the first informant has made an endeavour to suppress the genesis of the occurrence. The case of robbery is highly improbable.

6. In opposition to this the learned APP pressed into service the injury certificate of the first informant to bolster up the prosecution case that the first informant was, in fact, assaulted. The injury

certificate indicates that on 27th February, 2021 at about 8.30 am certain injuries were noted on the person of the first informant.

7. The moot question is of the veracity of the version of the first informant. Indubitably the wife of the applicant No. 1 has lodged a report against the first informant on 27th February, 2021, albeit in respect of an incident, which allegedly occurred on 16th February, 2021.

8. The first informant had known the applicant Nos. 1 and 2 from before. The first information report does not reveal any previous incident which could be a cause for the occurrence. In the light of the attendant circumstances and relative position of the parties, there is, prima facie, an element of uncertainty about the alleged assault with intent to commit robbery.

9. The applicants have been granted interim pre arrest bail on 15th April, 2021. At this length of time, the custodial interrogation of the applicants does not seem warranted, especially in the backdrop of the nature of the occurrence. The applicants appear to have roots in the society. Possibility of fleeing away from justice is remote. I am therefore persuaded to confirm the order of interim

pre arrest bail. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The order of interim pre arrest bail dated 15th April, 2021 stands confirmed on the same terms and conditions.
- 3] In addition, the applicants shall not tamper with the prosecution evidence/witnesses and shall not give threat or inducement to any of the prosecution witnesses.
- 4] The applicants shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)