

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1253 OF 2022
WITH
INTERIM APPLICATION NO.2141 OF 2022

Santosh Janardhan Sakunde and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. Niranjan Mundargi a/w. Mr. Keral Mehta, for the Applicants
Mr. Y.Y. Dabake, APP, for the State.
Ms. Chaitali Bhogle a/w. Mr. Sagar Kasar i/b. Mr. Amol Wagh, for the
Intervener.

CORAM : N. J. JAMADAR, J.
DATE : JULY 07, 2022

P.C.:

1. This is an application for pre-arrest bail in connection with C.R. No. 168 of 2022 registered with Vadgaon-Nimbalkar police station, Pune for the offences punishable under sections 143, 147, 148, 149, 327, 324, 323, 504 and 506 of Indian Penal Code, 1860.

2. Mr. Anand Sankude (first informant), lodged a report with the allegations that on 18th April, 2022 at about 11.45 am while his mother Sindhu had gone to the field Gut No. 295 to water the sugarcane crops, the applicants came thereat. They formed an unlawful assembly. They attempted to cut the pipeline of the first informant. When the first informant's mother resisted the efforts of the applicants to unlawfully connect the pipe to the well, the

applicants assaulted the first informant. When the mother of the first informant came to the rescue of the first informant, the applicants assaulted her as well by the handle of the shovel. It was further alleged that in the scuffle, the mother of the first informant was robbed of a neckless weighing 41 grams.

3. While granting interim pre-arrest bail on 6th May, 2022, this Court had noted that the civil disputes were pending between the parties.

4. I have heard the learned counsel for the applicants and the learned APP for the State. I have also perused the investigation papers.

5. The learned counsel for the applicant submitted that the informant was the aggressor. The applicant had gone to the Well armed with the order passed by the authorities permitting the applicants to fetch the well water. The incident has been exaggerated by the first informant. In fact, there is a video recording of the entire incident which indicates that the first informant was the aggressor.

6. The learned APP invited the attention of the Court to injury certificates. It was submitted that the antecedents of the applicant also need to be taken into account. Four non-cognizable reports have been registered with regard to the incidents between the parties.

7. I have carefully considered the material on record and given anxious consideration to rival submissions. Evidently, the informant party and the applicants are at loggerheads over the possessory and the proprietary title over the well and right to use the well water. It appears that the parties have lodged proceedings against each other.

8. From the perusal of the allegations in the first informant report, prima facie, the applicability of the provisions contained in section 327 of the Penal Code appears debatable. Firstly, both the first informant and his mother Sindhu have suffered simple injuries. Secondly, there are no allegations which prima facie bring the act of the applicants within the dragnet of the provisions contained in section 327 of the Penal Code. Rest of the offences appear to be bailable.

9. In any event, having regard to the nature of the occurrence, custodial interrogation of the applicants does not seem warranted. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The order of interim pre-arrest bail dated 6th May, 2022 is made absolute on the terms and conditions incorporated therein.
- 3] The applicants shall attend Vadgaon-Nimbalkar police station, Pune on every alternate Sunday between 10 am to 1 pm for a period of three months or till filing of the charge-sheet, whichever is earlier.
- 4] The applicants shall furnish their permanent address and contact details to the investigating officer and intimate the change, if any.
- 5] The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- 6] Interim Application disposed.

(N. J. JAMADAR, J.)