

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO. 194 OF 2022

(Durgabai Arjun Babhulkar & Ors.

.Vs.

State of Maharashtra)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. M.N. Ali, Advocate for the Applicants.

Mrs. Mayuri Deshmukh, APP for the Non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 5th APRIL, 2022.

Heard Mr. Ali, learned counsel for the applicant and Ms. Deshmukh, learned APP for non-applicant/State.

2. The applicants have been arraigned for the offence punishable under Sections 143, 147, 149, 353, 332, 504 of the Indian Penal Code and Section 3 of the Prevention of Destruction of Public Property Act and Section 7 of Criminal Law (Amendment) Act in Crime No.60/2022. The date of the incident is the intervening night of 06.02.2022 and 07.02.2022 at 01.09 a.m. The applicants have been arrested on 07.02.2022 and 08.02.2022. The charge-sheet has been filed on 04.04.2022.

3. Mr. Ali, learned counsel for the applicants submits, that the applicants have been falsely implicated. There are no independent witnesses, all the witnesses are from the Police Department. The

applicants have been incarcerated since 7-8 February, 2022 and there is no further need for their incarceration and the applicants are entitled to bail.

4. Ms. Deshmukh, learned APP opposes the application and submits, that the offence is serious in nature, inasmuch as, the applicant Nos. 2 and 3 have assaulted the Police Officers inside the Police Station for which the statements of G.P. Ingle, API, Shankar S. Karutale (PC), P.S. Maske (PC), Nitin H. Ingole (API) and several other persons have been relied upon. It is therefore submitted, that the application needs to be rejected, considering that the assault on the Police Officers.

5. The incident is in the intervening night of 06.02.2022 and 07.02.2022 when the Police received an information that there was loud noise of music being played in a house in Vishwanath Nagar, behind ST Depot, as a result of which, the patrolling car went to the said house and found that in front of a house, some people were playing loud music and dancing. When they were requested to stop the music considering the time, they started arguing and questioning as to who has made the complaint and were brought to the Police Station. In the Police Station, the applicant Nos. 2, 3, 5 and 6 have assaulted the Police Officers and also broken the furniture of the Police Station, as a result of which, all the applicants have been arraigned for the aforesaid offence.

6. Insofar as, the applicant Nos. 1 and 4 are concerned, the role attributed to them in the statements of the aforesaid persons do not indicate any assault by them of any nature, considering which, since they have been arrested on 08.02.2022, there is no *prima-facie* case made out to continue their further incarceration.

7. Insofar as, the applicant Nos. 2, 3, 5 and 6 are concerned, the statements of the aforesaid witnesses attributes direct action to the aforesaid persons of assault on the Police Officers as well as breaking of the furniture of the Police Station. No doubt, that as citizens of the State, the applicants are required to assist the prosecuting agency and comply with the law and not to take the same in their hands, however, insofar as the guilt of the applicants is concerned, that will be established in the trial, however, *prima-facie* since the entire investigation is over, the charge-sheet has also been filed on 04.04.2022, the need for any further incarceration of the applicants is not made out. Any apprehension, which the learned APP may harbour may be dealt with by putting stringent conditions. Hence the following order.

ORDER

- i. Application is **allowed**.
- ii. The applicants be released on bail in Crime No.60/2022 registered with the Police Station Shegaon,

District Buldhana, for the offence punishable under Sections 143, 147, 149, 353, 332, 504 of the Indian Penal Code and Section 3 of the Prevention of Destruction of Public Property Act and Section 7 of Criminal Law Amendment Act, on their furnishing P.R. Bond in the sum of Rs.75,000/- each and two solvent sureties each in the like amount.

iii. The applicants shall not tamper with the prosecution witnesses or directly or indirectly try to influence them in any manner whatsoever.

iv. The applicants shall attend each and every date before the learned Sessions Court without fail and any single default shall result in cancellation of bail.

v. The applicants shall also surrender their passports, if any, with the Investigating Officer and shall not leave the Country without the prior permission in writing of the concerned Court.

Pending application/s, if any, shall stand disposed of accordingly.

JUDGE

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