

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

CRIMINAL APPLICATION (ABA) NO.613 OF 2022

(SALMAN KHAN YUNUS KHAN & 4 OTHERS...VS..STATE OF MAH.THR. PSO PS BULDANA
(RURAL), DISTT. BULDANA)

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

Court's or Judge's orders

Shri A.J.Thakkar, Advocate for Applicants.
Shri S.A.Ashirgade, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : SEPTEMBER 15, 2022.

1. Heard.
2. By this application under Section 438 of the Code of Criminal Procedure the applicants are seeking pre-arrest bail in Crime No.190 of 2022, registered with Police Station, Buldana (Rural) for the offences punishable under Sections 307, 141, 143, 147, 148 and 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act.
3. The learned counsel for the applicants submits that considering the role attributed to the applicants, it can be seen that they were merely present at the time of the incident, but, they are not the authors of the injuries caused to the victim. He further submits that as no role is attributed to the applicants, custodial interrogation of the applicants is not necessary.
4. On the other hand, the learned A.P.P. strongly opposed the application. He submits that the injuries caused to the victim/injured are grievous and considering

the nature of the allegations in the light of the fact that the applicants along with other co-accused formed an unlawful assembly and committed the alleged offence, the role of the applicants has no relevance. He further submits that the investigation is going on and custodial interrogation of the applicants is necessary. Accordingly, he prays for rejection of the present application.

5. I have perused the case diary and the application.

6. The Investigating Officer has recorded the statements of witnesses during investigation who have disclosed the names of the applicants. The allegations are that the applicants, along with other accused persons, have formed an unlawful assembly and assaulted the injured. Accordingly, provisions of Section 307 along with Section 149 of the Indian Penal Code, were invoked. Moreover, as the investigation is going on, the submission of the learned counsel for the applicants that no overtact is attributed to the applicants, cannot be accepted, particularly in view of the fact that there is incriminating material available to show the involvement of the applicants in the alleged offence. Accordingly, I pass the following order.

The application is **rejected**.