

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

CRIMINAL APPLICATION (ABA) NO. 861 OF 2021

Shri Vaibhav Bhaiyyasaheb Dahane and anr.

..vs..

State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri P.K. Dahat, Advocate h/f Shri M. Anilkumar, Advocate for
applicants.

Shri S.D. Sirpurkar, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 05/01/2022

Heard.

2. In anticipation of arrest in Crime No.928 of 2021 registered with Warora Police Station, District Chandrapur for the offence punishable under Sections 294, 332 and Section 353 of the Indian Penal Code, the applicants have prayed for pre-arrest protection on account of innocence, false implication and inadequacy of material. At the instance of report lodged by the Civil Engineer, the Crime was registered.

3. It is the prosecution case that on 04.12.2021, the informant – a Civil Engineer attached to the Nagar Parishad was inspecting road work, at that time both the applicants who claims to be the social worker, arrived on the spot and objected the work by stating that the road construction work is of sub-standard quality. While the informant was explaining the things, that time applicant Vaibhav Dahane abused the

informant in filthy language and then both of them thrown cement chemical at the person of the informant.

4. The non-applicant/ State resisted bail by filing reply-affidavit. Perused the First Information Report and case papers. There are statement of eye-witnesses, who have seen the applicants while abusing and throwing cement chemicals at the person of the informant. It is stated that on the very day, the applicants have earlier filed an application with the Police complaining about inferior quality of work. However, the said copy of the application does not satisfy that it was received by the Police. Moreover, the possibility of applicants creating defence cannot be ruled out. In any way, the applicants have no concern of taking law into hand by assaulting public servant while discharging duty. The prosecution has produced a Chart showing the antecedents of both applicants. It reveals that some offences were registered against them in past. Learned Counsel for the applicants would submit that merely on account of some antecedents, their liberty cannot be deprived. For this purpose, he relied on the decision of the Supreme Court in case of *Ansab vs. State of Kerala 2020 SCC OnLine Ker 3299*. The said ratio would not assist the applicants since the entitlement of applicants is not tested only on the basis of antecedents, but primely on the basis of seriousness of charge, under which the applicants are claiming bail.

5. Moreover, by placing reliance on the decision of Supreme Court in Special Leave Petition (Criminal) Nos. 7281-8282 of 2017 (*Sushila Aggarwal and ors vs. State (NCT of Delhi) and anr.*) it is submitted that the applicants were not convicted in past and therefore, mere registration of offences in past, cannot be considered. I am not in agreement with said submission, because the parameters laid down under Section 438 of the Code of Criminal Procedure, are to be considered along with other relevant factors. Therefore, registration of offences in past can also be taken into account as one of the factor while assessing the applicants' case.

6. It is an example of lawlessness in utter disregard to the rule of law. The applicants who are having affiliation to some party, had obstructed public servant and even thrown cement chemical at his person. The instances of attacking public servant at public place are at rise, which would demoralize them while doing their duty. Therefore, both the applicants does not deserve for pre-arrest protection, hence the application stands rejected.

JUDGE

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