

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.198 OF 2023
WITH APPLN/718/2023 IN ABA/198/2023**

**KUNDLIK S/O VISHWANATH HARICHANDRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Mr. Avishkar Shelke, Advocate h/f Mr. A.R. Lukhe, Advocate for
Applicants
Ms. R.P. Gour, APP for Respondents – State
Mr. Sumit S. Agrawal Advocate for Assist to APP
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 17th FEBRUARY, 2023

PER COURT :

1. After arguing at length on merits, when this Court was not inclined to grant relief to applicant No.1, learned advocate for applicants, on instructions, seeks permission to withdraw the application of applicant No.1. Permission granted. Application of applicant No.1 Kundlik Vishwanath Harichandre is hereby dismissed as withdrawn.

2. Applicants apprehend arrest in Crime No.47/2023, registered with Ambad Police Station, District Jalna, for offence punishable under sections 143, 147, 148, 326, 504 and 506 of the Indian Penal Code.

3. FIR is lodged by Muralidhar Babasaheb Waghunde

alleging that on 19/01/2023 when the informant went to ask Kundlik Harichandre as to why he has emptied *Murum* loaded in the tractor on his land, Kundlik and his relatives abused and assaulted him with spade and sticks. His cousin Prakash Waghunde was also assaulted with spade on his hand and face. His brother Dattatraya Waghunde, Bappasaheb Waghunde and Dwarkabai Waghunde tried to intervene. They were also assaulted with the said weapons. It is alleged that in the said incident Bappasaheb Waghunde's hand was fractured.

4. Heard learned advocate for applicants, learned Additional Public Prosecutor for State and learned advocate for Assist to APP. Perused the investigation papers.

5. On 19/01/2023, Kundlik Harichandre has lodged the FIR against Prakash Waghunde, his wife, Narayan Waghunde, Bappa Waghunde, Murali Waghunde, Datta Waghunde, Ramu Waghunde and Pandurang Waghunde, alleging that all these persons assaulted him and his wife and sons with spade and sticks. The same is registered at Crime No.42/2023, with the same police station under sections 143, 147, 148, 149, 324, 504, 506 of the Indian Penal Code. In this crime investigation papers show that Anil Harichandre has suffered contusion on right temporal region, which is a simple injury. Rajendra Harichandre has received one CLW on right

temporal region, one CLW on left elbow and one abrasion on back. Kundlik has suffered CLW on forehead, contusion below left thigh, contusion on left thigh and abrasion on right thigh. Girajabai has suffered one contusion on lower back and one contusion on left elbow. All the injuries are simple in nature.

6. Perusal of the investigation papers and FIR in question reveal that Prakash has suffered CLW on upper lip and abrasion on right knee. Both are simple injuries. Muralidhar has suffered contusion on right temporal region and right hand shoulder. Bappasaheb has suffered contusion on right hand, which is simple injury. Dattatraya has also suffered contusion on right hand. Dwarkabai has suffered contusion on lower back.

7. Thus, it appears that there was scuffle between both the groups and both the parties have received injuries in the same. Since main role is attributed to Kundlik and injury certificates indicate that Kundlik was the main assailant, hence, no protection is granted to him.

8. Contention of learned advocate for applicant that the incident has taken place in front of the house of applicants and therefore, informant party was assailants, *prima facie* is acceptable. Applicants undertake to produce sticks allegedly used by them in

the offence. Considering the attending circumstances, the applicants deserve protection.

9. In the result, application is allowed.

10. In the event of arrest of applicant Nos.2 to 6 in Crime No.47/2023, registered with Ambad Police Station, District Jalna, for offence punishable under sections 143, 147, 148, 326, 504 and 506 of the Indian Penal Code, applicant Nos.2 to 6 be released on executing Personal Bond of Rs.15,000/- each, with one surety in the like amount. They shall attend the concerned police station everyday from 22nd February, 2023 to 24th February, 2023 and shall cooperate in the investigation. Thereafter, till filing of charge-sheet, applicants shall attend concerned police station as and when called by investigating officer. Applicants shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)