

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

**ANTICIPATORY BAIL APPLICATION NO.404 OF 2023
WITH ABA/529/2023**

**GOVIND GANPAT PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants in ABA/404/2023 : Mr. M. U.
Shelke

Advocate for Applicant in ABA/529/2023:Mr. P. G.
Tambade h/f Mr. D. H. Jadhavar

APP for Respondents: Mr. S. N. Morampalle

...

CORAM : R.M. JOSHI, J

DATE : JUNE 26, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 25 of 2023 registered with Osmanabad Rural Police Station, Dist. Osmanabad for the offences punishable under Sections 307, 323, 506 read with Section 34 of the Indian Penal Code.

2. On 11/03/2023 first information report came to be lodged by Babu Rathod stating that on 12.01.2023 when he went to his agricultural field, present Applicants called him and alleged against him that he used motor out of turn and hence, electric supply was disconnected. It is further stated by him that they

assaulted and forced him to climb on electricity pole in order to connect the wire. When he climbed the pole, the electricity supply started and therefore, he sustained shock and fell down. He was taken to Government Hospital at Osmanabad and from there he was referred to Solapur. He was discharged on 25th June, 2023 to but again was admitted in hospital till 30th January, 2023. On the basis of this information, Applicants are apprehending arrest.

3. Learned Counsel for the Applicants states that there is statement made by the informant before medical officer in the Government Hospital at Solapur to the effect that he out of his own climbed the electric pole and fell down as he lost his balance. Thus, according to him, the first information given about incident is of accidental fall. According to him, offence punishable under Section 307 of IPC has no application and considering delay in lodging report, false implication cannot be ruled out.

4. Learned APP opposed the said submissions and it was specifically argued that when this alleged statement of the informant was recorded in the Hospital

at Solapur Applicant – Mahadev was present and therefore, such statement came to be recorded. It is also argued that it can be expected that considering nature of injuries caused to informant, report could not be lodged immediately.

5. There is no dispute about the fact that the informant initially gave history to the medical officer about accidental fall from the electric pole. There is nothing on record to show that Applicant – Mahadev was present when history was recorded by the medical officer. Thus, doubt is created about genuineness of the first information report. Apart from this, even accepting the statement of informant as it is that he was forced to climb on electric pole, question would arise as to whether Section 307 IPC would apply to this case or not. Having regard to these facts and as nothing is to be recovered at the instance of Applicants, it is the fit case for confirmation of interim order. Hence, applications are allowed in terms of interim order dated 24th March, 2023 and 03rd May, 2023 respectively.

(R.M. JOSHI, J.)