

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

ANTICIPATORY BAIL APPLICATION NO. 462 OF 2023
WITH APPLN/1567/2023 IN ABA/462/2023

DNYANESHWAR MARUTI GAWALI AND OTHERS
VERSUS
THE SUPERINTENDENT OF POLICE, AHMEDNAGAR
AND ANOTHER

...
Advocate for Applicants : Mr. Rahul R. Karpe
APP for Respondents : Mr. S.N. Morampalle

CORAM : R.M. JOSHI, J.
DATE : 08th June, 2023

PER COURT :

1. At the outset learned counsel for the applicants states that applicant no. 3 is arrested, thereafter, released on bail and hence, application against applicant no. 3 is not pressed.

2. Applicant nos. 1, 2 and 4 are apprehending arrest in connection with Crime No. 287/2023, registered with Shrigonda Police Station, for the offences punishable under Section 326, 324, 341, 143, 147, 148, 149, 323, 504, 506 of IPC. It is not in dispute that subsequently for the offences punishable under Section 307 of IPC came to be added.

3. The informant has specifically stated in the report that he has dispute with his real brother Maruti. Incident has

occurred on 08.03.2023. It is alleged that Maruti and other persons including present applicants came on Motor cycle and threatened the informant. At that time, Maruti and Gajanan assaulted the informant with iron rod and wooden stick. There are allegations against present applicants that they had assaulted the informant and his son with kick and fist blows and also threatened them.

4. Learned counsel for the applicant states admittedly there are disputes between the parties and hence, possibility of false implication of the accused cannot be ruled out. It is submitted that as far as present applicants are concerned, there are no allegations against them as using the weapon and causing assault on the informant and his son. Thus according to him, nothing is to be recovered at their instance and hence, the interim relief deserves to be confirmed.

5. Learned APP and learned counsel for the informant opposed the said contention by referring to the statement of witnesses. It is stated that for the purpose of recovery of Motor Cycle on which the applicants came to the spot, their custodial interrogation is necessary.

6. Perusal of the FIR shows that there are disputes between informant and co-accused Maruti and civil proceedings are also pending. It further indicates that there is no allegation on present applicants for causing assault on the informant and his son with any weapons.

7. In such circumstances, no weapon is to be recovered at the instance of present applicants. With regard to the contention of learned APP the present applicants are also responsible for the acts of the co-accused that can be considered and appreciated during trial. Though, it is alleged that accused came on Motor Cycle, *per se*, the recovery of Motor Cycle may not be necessary to the effective investigation of the case. At this stage, suffice it to say that custodial interrogation of the applicants is not necessary. Applicants are already protected by interim order. Record shows that the said liberty has not been misused by them. Imposition of appropriate conditions on the applicants to co-operate the police, would be sufficient for the further effective investigation. Hence, application stands allowed.

ORDER

- i. In the event of arrest of applicant in connection with Crime No. 287 of 2023 registered with Shrigonda

Police Station, for the offences punishable under Sections 307, 326, 324, 341, 143, 147, 148, 149, 323, 504, 506 of IPC. They shall be released on bail on furnishing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand only) each with one solvent surety in the like amount.

ii. They shall attend the concerned police station once in a week till filing of the charge-sheet.

iii. They shall not contact the witnesses directly or indirectly.

iv. They shall not interfere with the evidence in any manner whatsoever.

v. They are further directed to co-operate the investigating agency for further investigation.

[R.M. JOSHI, J.]

SPChauhan