

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 ANTICIPATORY BAIL APPLICATION NO.593 OF 2023
WITH APPLN/2007/2023 IN ABA/593/2023

1. Shrikant Mohan Murkute
 2. Raju @ Rajendra Murlidhar Murkute
 3. Sachin Hanumant Murkute
- .. Applicants

Versus

The Superintendent of Police & Another

.. Respondents

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Advocate for Applicants : Mr. Rahul R. Karpe
APP for Respondent – State : Mrs. G.L. Deshpande
Advocate for Informant : Ms. Rashmi S. Kulkarni h/f.
Mr. Dilip B. Rode

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CORAM : R. M. JOSHI, J.

DATE : 7th JULY, 2023

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No.141 of 2023 registered with Karjat Police Station, Tal. Karjat, Dist. Ahmednagar for the offences punishable under Section 307, 143, 147, 148 and 149 of the Indian Penal Code and Section 3, 4/25 of the Arms Act.

2. First informant - Pramod gave information in respect of

incident occurred on 04.03.2023 at 05:30 p.m. It is stated in complaint that applicants and co-accused entered agricultural field of informant. They were armed with weapons. One Navnath saw assailants coming towards him and gave a call to informant and then informant started running away. At that time, co-accused - Vinod fired a bullet from pistol in his hand, due to which informant sustained injury to his leg. It is further stated that when informant started raising shouts, assailants ran away from the spot. After hearing his shouts, his three relatives came there and they brought him to the hospital.

3. Learned counsel for applicants states that First Information Report itself clearly shows that there are disputes between the parties since the year 2014 and that they lodged criminal cases against each other. It is submitted that there is specific allegation against co-accused Vinod that he fired a bullet from his pistol on leg of informant, due to which informant sustained injury to leg. As far as present applicants are concerned, it is contended that there is no allegation against them for causing any injury to the informant. Thus, he seeks anticipatory bail.

4. Learned APP as well as learned counsel for informant opposed said submissions by stating that applicant no.1 - Shrikant is granted interim relief by Hon'ble Apex Court in another crime and during pendency of the said proceeding before the Hon'ble Apex Court, he has committed present crime. It is also contended that offence under Section 149 is applied to the present case and applicants' presence with arms at the spot of the incident shows the common object of attempting to kill informant.

5. It is undisputed that informant and applicants have previous enmity over the agricultural road since 2014. They have filed various criminal cases against each other. No doubt, previous dispute or enmity becomes ground for commission of crime as well as it can be the reason for false implication too. When there are previous disputes between the parties, the Court needs to be more careful while assessing the facts on record. Perusal of the First Information Report shows that present applicants and co-accused came to spot armed with weapons. It is the contention of prosecution that since Navnath gave call to informant and his relatives and when they

reached the spot, assailants fled away. These facts however do not reflect normal human conduct. Here in this case if all assailants were armed with weapons and one of them was also carrying fire arm, question arises as to why they will flee on seeing two persons one of them is a lady.

6. If assailants had an intention to kill informant, it does not stand to any reason that those persons came to spot with weapons but they inflict not a single injury nor even an attempt was made to do so. It can be easily gathered from statements made in the First Information Report that informant after sustaining bullet injury which was caused by the co-accused - Vinod could not have been able to run away from the spot. In spite of this if no attempt made by other assailants to inflict any injury on him, only indicates that there may not be substance in the story of informant.

7. In the light of previous disputes, false implication of present applicants cannot be ruled out. More particularly, when it could become a ground for cancellation of relief granted. Taking into consideration the fact that there is a possibility of false implication of

applicants as well as having regard to the fact that they did not commit any overt act, this Court is of the view that liberty of applicants deserves to be protected. Hence, following order.

ORDER

(i) The application is allowed in terms of interim relief dated 19.04.2023, except condition no.(i) which is modified as under:

(a) Applicants are directed to appear before Investigating Officer once in a week.

[R. M. JOSHI]
JUDGE

GGP