

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 654 OF 2023

1. Sahebrao s/o Ganpat Gadekar
 2. Parmeshwar s/o Sahebrao Gadekar
 3. Abhishek s/o Prem Gadekar
 4. Vitthal s/o Ganpat Gadekar
 5. Santosh s/o Ganpat Gadekar
- Applicants

Versus

The State of Maharashtra

Respondent

Mr. A. D. Raut, Advocate for the applicants.

Mr. S. N. Morampalle, APP for the State.

Mr. P. G. Patil, Advocate holding for Mr. S. S. Landhe, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 21st JULY, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 89/2023 registered with Basamba Police Station, Tq. & Dist. Hingoli for the offences punishable under Sections 307, 324, 323, 447, 504, 506, 143, 147, 148, 149 of Indian Penal Code.

2. Learned counsel for applicants states that there are disputes between the parties and owing to the said disputes, false implication cannot be ruled out.

3. Learned APP and learned counsel for the applicant opposed the said submission by referring to the injury certificate and statements of witnesses recorded during the course of investigation.

4. As far as applicant No. 1 Sahebrao Gadekar and applicant No. 3 Abhishek Gadekar are concerned, allegation against them is that they had assaulted the informant with fists blows. As far as applicant No. 2 Parmeshwar Gadekar is concerned, it is alleged that he assaulted the informant with stone on his back. However, injury certificate does not support the said contention of the informant.

5. Learned counsel for the applicants states that there are disputes between the parties and civil suit is filed wherein injunction has been granted in favour of applicant No. 5. Thus, according to him, the possibility of false implication or over implication cannot be ruled out.

6. Merely because civil dispute is pending between the parties over the property, when there is prima facie material on record to indicate that informant had sustained injuries as alleged in the First Information Report and where custodial interrogation of the accused is necessary for the purpose of recovery of weapons, anticipatory bail cannot be granted in their favour.

7. Learned counsel for the applicants states that the liberty of the applicants was protected in the month of April 2023 and hence now after lapse of substantial period, there is no propriety in rejecting anticipatory bail application. It needs to be reminded to ourselves that merely because some relief was granted at ad-interim stage to the applicants whereby their liberty is protected, that does not preclude the Investigating Agency to carry further investigation. Where for the purpose of recovery of weapons custodial interrogation of the applicants is necessary, grant of ad-interim relief cannot be extended further. Here in this case, there is specific allegation of using weapons against applicant No. 5 Santosh Gadekar and Applicant No. 4 Vitthal Gadekar which is corroborated by the injury certificate placed on record. In such circumstances, the Investigating

Agency is fully justified in seeking custodial interrogation of the applicants.

8. In view of above discussion, application is partly allowed. Application is allowed qua applicants No. 1 Sahebrao s/o Ganpat Gadekar, applicant No. 2 Parmeshwar s/o Sahebrao Gadekar and applicant No. 3 Abhishek Prem Gadekar, in terms of the interim order. Ad-interim relief granted in favour of applicant No. 4 stands vacated. Application is rejected to the extent of applicant No. 4 Vitthal s/o Ganpat Gadekar and applicant No. 5 Santosh s/o Ganpat Gadekar.

(R. M. JOSHI)
Judge

dyb