

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 815 OF 2023

1. Mahendra s/o Santosh Upadhye
 2. Majhar s/o Khalil Tambatkar
- Applicants
- Versus

The State of Maharashtra & another

Respondents

Mr. S. R. Andhale, Advocate for the applicants.
Mrs. G. L. Deshpande, APP for the State.
Mr. S. V. Sudrik, Advocate for the informant.

CORAM : R. M. JOSHI, J.
DATE : 23rd JUNE, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 364/2023 registered with Kotwali Police Station, Dist Ahmednagar, for the offences punishable under Sections 326, 307, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Informant Nitin while admitted in Anandrushi Hospital, gave information to the police that on 13th April, 2023, when he went to Palak Agency of co-accused for seeking return of the amount of Rs. 55,00,000/-, present applicants came to the spot and questioned him as to why he has come there. When he disclosed to them that the

amount is due to him from the co-accused. At that time, applicant No. 1 told him that he won't get any money and that he should leave forthwith. When informant insisted to meet co-accused Ashok, present applicants assaulted him with wooden stick and fists and kicks blows. Informant claims that he became unconscious and thereafter was taken to the hospital.

3. Learned counsel for the applicants states that the applicants have nothing to do with the dispute between informant and co-accused Ashok. It is contended that a false complaint is lodged against the applicants. It is also submitted that there are no specific allegations against the present applicants of causing assault to the informant. He further submitted that merely because the applicants were present at the spot, it cannot be assumed that they are involved in the crime.

4. Learned APP and learned counsel for the informant opposed the application on the ground that the present complaint was recorded while the informant was admitted in the hospital. Attention of this Court is drawn to the injury certificate of the informant which shows that he sustained two grievous injuries which

were caused by hard and blunt object. They also relied upon the statement of witness who had witnessed the said incident in question.

5. Merely because the applicants are not responsible for refund of amount to the informant, it cannot be presumed that it is a false complaint against them. Applicants were unable to show as to what is the previous dispute between them and the informant in order to falsely implicate them in this crime. As against this, there is seen specific allegation against applicants herein that they assaulted the informant with wooden stick. This contention gets corroboration by injury certificate which indicates that out of seven injuries caused to the informant, two injuries were grievous in nature. Offence punishable under Section 326 of the Indian Penal Code is therefore rightly invoked against the present applicants. Once prima facie involvement of the applicants is seen in the serious crime and there is need of custodial interrogation of the applicants for recovery of the weapon, they would not be entitled to get anticipatory bail. Hence, application stands dismissed.

6. At this stage, learned counsel for the applicants states that liberty of the applicants was protected by interim order and as the applicants wish to challenge the order passed by this Court before the Hon'ble Apex Court, the said interim relief be continued for a period of four weeks.

7. The said contention is opposed by learned APP and learned counsel for the informant.

8. Since liberty of the applicants was protected by interim order, the same is extended by further four weeks.

9. Application stands disposed of.

(R. M. JOSHI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2108 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO. 815 OF 2023

Shri Nitin Dattatray Chipade

Applicant

Versus

Mahendra Santosh Upadhey & others

Respondents

Mr. S. V. Sudrik, Advocate for the applicant

Mrs. G. L. Deshpande, APP for the State.

Mr. S. R. Andhale, Advocate for respondents No. 1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 23rd JUNE, 2023.

PER COURT :

Application is allowed.

(R. M. JOSHI)
Judge

dyb