

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 828 OF 2023

1. Dnyandev s/o Ganpat Ghorpade
2. Anju @ Anjali Dattatray Ghorpade Applicants
Versus

The State of Maharashtra & another Respondents

Mr. N. B. Narwade, Advocate for the applicants.
Mrs. G. L. Deshpande, APP for the State.

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

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 222/2023 registered with Pathardi Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code.

2. Prataprao Ghorpade gave information to the police that there are disputes between his cousin brother (deceased) and present applicant No. 1 in respect of joint family property. It is alleged that applicant No. 1 encroached into the property by constructing toilet. On 26th February, 2023, he received information about deceased being

assaulted by applicants and others with iron rod. On the basis of this information, offence came to be registered against the applicants.

3. Learned counsel for the applicants has drawn attention of this Court to the finding recorded by learned Additional Sessions Judge while deciding bail application of the co-accused wherein it is categorically observed on the basis of the material on record that the cause of injuries appears to be road accident. It is further submitted that there are disputes between the parties and hence possibility of false implication cannot be ruled out. In order to support his submission, he drew attention of the Court to the order passed in RCC No. 77/2010 and 213/2013 wherein the applicants were acquitted in the case on the basis of complaint of the deceased. It is therefore submitted that this could be a case of false implication. He further claims that applicant No. 1 is aged about 75 years and applicant No. 2 is a lady. According to him, nothing is to be recovered at their instance as the recovery of weapon is already done during the course of investigation.

4. Learned APP opposed the said submissions by referring to the Post Mortem notes. She submits that there are as many as 15

injuries caused to the deceased and therefore, possibility of such injuries being sustained in road accident is ruled out. Attention of the Court is also drawn to the statement recorded during investigation in order to submit that it is not a case wherein applicants deserve anticipatory bail.

5. Admittedly, there are disputes between the parties. There is no single witness to the incident in which deceased sustained injuries. Statement of his wife indicates that deceased was under treatment for substantial period and he was in a position to speak. If it is so, it was incumbent for the investigating agency that immediately record his statement. Apart from the fact that no such statement is recorded, even medical papers of the hospital wherein he was admitted are not collected during investigation. There is no challenge to the order passed by the learned Additional Sessions Judge wherein finding is recorded about the injuries appear to have been caused in road accident. Applicant No. 1 is aged about 75 years and applicant No. 2 is a lady. Nothing is to be recovered at their instance. In such circumstances, their liberty deserves to be protected. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicants in connection with Crime No. 222/2023, registered with Pathardi Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one solvent surety each in the like amount.
- (iii) They shall attend the concerned police station once in a week.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.
- (vi) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge