

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 827 OF 2023

1. Ankush Tukaram Thombre
2. Tukaram Ambadas Thombre Applicants
Versus

The State of Maharashtra Respondent

Mr. S. S. Jadhavar, Advocate for the applicants.
Mrs. G. L. Deshpande, APP for the State.
Mr. V. B. Kale, Advocate for the informant.

CORAM : R. M. JOSHI, J.
DATE : 31st AUGUST, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 422/2023, registered with Newasa Police Station, Tq. Newasa, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 323, 504, 506 of Indian Penal Code.

2. Learned counsel for the applicants submits that admittedly, there are disputes between the parties over common property held by them. As far as First Information Report is concerned, it is argued that there is allegation against present applicants about causing injuries to the informant and witnesses

with iron rod. It is his further contention that on 28th April, 2023, while adding offence punishable under Section 307 of Indian Penal Code, altogether different weapon was claimed to have been used in causing said assault and the injury certificate of private hospital is relied upon to state that grievous injury was caused to the witness. Perusal of the First Information Report shows that some incident had occurred on 13th April, 2023, at around 7.00 am. It is stated in the said report that there are disputes between the parties over agricultural land. The allegations are there against the present applicants as well as co-accused of causing assault on informant and others. Allegation against present applicants is that they caused assault on informant and Santram i.e. father of the informant.

3. Learned APP opposed the application by contending that the statement of witness which forms part of investigation papers show that the incident in question had occurred on 13th April, 2023. She placed reliance on the injury certificate issued by City Care Multispeciality Hospital which indicates that Santram sustained grievous injury to the scrotum. It is submitted by learned APP that the nature of injury may not be relevant in order to decide as to whether offence punishable under Section 307 of Indian Penal Code

is attributed or not. The application is also opposed by learned counsel for the informant.

4. There is no denial of the fact that there are disputes between the parties over landed property and the same is confirmed from the First Information Report itself. In the First Information Report, specific averments are made by the informant about the use of weapon by applicants to cause assault on him and Santram. Perusal of the First Information Report shows that initially offence punishable under Section 323 of Indian Penal Code was registered against the applicants and on 28th April, 2023, on the basis of injury certificate issued by private hospital, offence punishable under Section 307 of Indian Penal Code came to be added. Addition of charge is not only on the basis of nature of injury certified by private hospital but also the weapon which was alleged used in causing said injury. First informant was candid to say that the injuries were caused by iron rod whereas the nature of weapon is changed subsequently after receipt of injury certificate from private hospital. At this stage, it would be relevant to take note of the fact that the informant and Santram were initially taken to the Government hospital wherein certificate was issued certifying that the injury

caused to scrotum of Santram to be simple injury. In this certificate also, object used for causing said injury is stated to be sharp object. The certificates issued by the Government hospital and private hospital at different point of time do not support the allegations made in the First Information Report. Having regard to the fact that there are disputes between the parties, there is reason to accept the contention of learned counsel for the applicants that this could be a case of false or over implication. Having regard to this fact, the application deserves to be allowed in terms of interim order. For the purpose of recovery of any muddemal, applicants shall be treated in the custody of Investigating Officer. They are directed to attend the concerned police station once in a fortnight till conclusion of investigation.

(R. M. JOSHI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1986 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO. 827 OF 2023

Mahadev Santram Thombare

Applicant

Versus

Ankush Tukaram Thombre & others

Respondents

Mr. V. B. Kale, Advocate for the applicant.

Mr. S. S. Jadhavar, Advocate for respondents no. 1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 31st AUGUST, 2023.

PER COURT :

1. Learned counsel for the applicant/informant seeks leave to assist learned APP.
2. Considering the nature of allegations, application is allowed.

(R. M. JOSHI)
Judge

dyb