

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.846 OF 2023

**SAGAR BHIKAJI BHONDAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

Mr. A. D. Shinde, Advocate for the applicants
Mr. G. O. Wattamwar, APP for the respondent/State
Ms. S. G. Sonawane, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 22nd JUNE, 2023

P.C. :-

1. Ms. Sonawane, learned counsel for the informant states that she be permitted to assist APP. Having regard to the nature of offence, request is granted.

2. At the outset learned counsel for the applicants states that, on instructions he does not wish to press application of applicant No.2-Prasad Bhondave and applicant No. 4-Kiran Bhondave. Hence application stands dismissed as withdrawn qua applicant Nos. 2 and 4.

3. Learned counsel for the applicant states that applicant No.1 is already arrested. Hence application has become infructuous. On instructions, he seeks withdrawal thereof. Application of applicant No.1

stands dismissed as withdrawn.

4. Rest of applicants apprehend arrest in connection with CR No. 444 of 2023 registered with Shrigonda Police Station, Tal. Shrigonda, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 447, 427 of IPC on the basis of information given by Bapu Mane in respect of the incident occurred on 03/05/2023. It is stated in the report that there are previous disputes between the parties and in respect of the agricultural land civil suit is also pending. It is alleged that when the informant along with his son and brother came to the spot present applicants and co-accused assaulted him. There are specific statements in the report against accused as to the weapons used for causing assault on informant and others.

5. Learned counsel for the applicants states that considering the disputes between the parties over the land the possibility of false implication cannot be ruled out. He further contends that as far as applicant Nos. 3, 5 and 6 are concerned there is absolutely no allegation in the report about they causing assault on the informant or injured witnesses. He, therefore, states that no offence is made out against them.

6. Learned APP as well as learned counsel for the informant by stating that all accused came together to the spot armed with weapon and thereafter even if some of accused have caused assault on the informant and others, present applicants also responsible for the same for their acts in view of application of Section 149 of IPC. By relying upon photographs it is argued that the presence of the applicants can be seen at the spot so also the damage caused to the vehicle of informant.

7. Once admittedly there is a dispute between the parties the Court has to be on guard and is required to ascertain as to whether it is a case of false or over implication or not. Even if, it is accepted that even present applicants were at spot having weapons in their hand, the question arises as to what prevented them from assaulting the informant and others by use of the said weapons. This fact itself clearly indicates that though they were present at the spot, they may not have shared any common intention or common object. Since there is no allegation or causing of actual assault on the informant and others, Section 307 of IPC may not get attracted against them.

8. Learned APP drew attention of the Court to the report of the police wherein it is stated that applicant Bapu and Pravin have criminal antecedent. Having regard to the fact that involvement in the present

crime is not seen, on account of antecedent against them, this Court is not inclined to refuse protection of their liberty. Hence the order.

ORDER

(i) In the event of arrest of applicant No.3- Sandeep Suryawanshi, applicant No.5- Pravin Kurumkar and applicant No. 6- Bapu Kurumkar in connection with Crime No. 444/2023, registered with Shrigonda Police Station, Tal. Shrigonda, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 447, 427 of IPC, they shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) each with one solvent surety in the like amount.

(ii) They shall attend the concerned police station once in a week till filing of the charge-sheet.

(iii) They shall not contact the witnesses directly or indirectly.

(iv) They shall not interfere with the evidence in any manner whatsoever.

(v) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)

ssp