

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 879 OF 2023

1. Laxmibai Vishwanath Hanwate
2. Kondiba Buwaji Ujagare
3. Ratnamala Kondiba Ujagare ...Applicants

Versus

The State of Maharashtra & Another ...Respondents

Mr. S. J. Salunke, Advocate for the Applicant.
Mr. S. P. Sonpawale, APP for Respondents – State.

CORAM : R.M. JOSHI, J.

DATE : OCTOBER 17, 2023

PER COURT:

1. Applicants apprehend arrest in connection with Crime No. 90 of 2023 registered with Palam Police Station, Dist. Parbhani for the offences punishable under Sections 327, 324, 323, 354, 354-B, 504, 506, 289, 34 of Indian Penal Code.

2. First informant reported incident dated 19.05.2023. She claims that at about 10.00 am dog belonging to her neighbour tried to bite her son Kishor. Her son Kishore, therefore, went in front of house of Laxmibai and asked them to take care of the

dog as the dog has tried to bite him. At that time, informant's elder son Ranjit came to the spot. It is alleged that Kondiba, son-in-law of Laxmibai, assaulted Rajit over his head with iron rod. When informant went to rescue him, Kondiba outraged her modesty by touching her inappropriately. It is alleged that her gold chain was snatched. It is alleged against co-accused that they assaulted informant and her son Kishor with fist and kick blows.

3. Learned Counsel for the Applicants submits that it is a case of false implication as in respect of the incident occurred at 10.00 am, offence came to be registered in the night at about 09.45 pm. It is his submission that in fact on the same day a complaint was lodged by Applicant No. 3 against informant and her sons and the said report has been lodged on 04.45 pm. It is his contention that in fact in the said incident two Applicants and others were assaulted. It is also submitted that though allegations are made against Applicant No. 2 of causing actual assault and also snatching of the chain of the informant coupled with outraging of her modesty, however, at the relevant time

applicant was not present at the spot and that he was attending funeral of acquaintance. It is submitted that it is a case of false implication and hence, Applicants are entitled to seek anticipatory bail.

4. Learned APP opposed the application by submitting that there are specific allegations against present Applicants showing their involvement in the crime. It is further submitted that injury certificate supports the allegations made in the FIR. It is however, not in dispute that CDR of mobile phone of Applicant No. 2 shows his presence not at the spot of incident at the relevant time.

5. Perusal of the record indicates that in respect of incident of the same day offence came to be registered at the instance of Applicant No. 3 against informant and her sons. The said report is lodged prior in time. It is also pointed out from the record that Applicant No. 3 sustained fracture injuries in the said incident. As far as present FIR is concerned, the report has been lodged belatedly after 09.00 pm though incident in question has occurred at around 10.00 am. Having regard to the disputes between the parties and

the report lodged by the Applicant No. 3 against informant, the possibility of false implication is created. Apart from this, CDR of the Applicant No. 2 shows that the Applicant No. 2 was not present at the spot of incident at material point of time. Investigation papers do not indicate causing of any serious injury as claimed by the informant.

6. Having regard to the aforestated facts, this Court finds substance in the contention of learned Counsel for the Applicants that this could be a case of false/over implication. There are no criminal antecedents of the Applicants and they are not likely to abscond. For the purpose of recovery of weapon, if any, the Applicants deemed to be treated in the custody of police.

7. In view of above, application stands allowed by confirming interim orders dated 23rd June, 2023 and 23rd August, 2023.

(R.M. JOSHI, J.)

Malani