

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

ANTICIPATORY BAIL APPLICATION NO.906 OF 2023

1. Bayjabai Nagorao Rathod
2. Nagorao Saklal Rathod

VERSUS

The State of Maharashtra
Aundha Nagnath, Ta. Aundha Nagnath
Dist. Hingoli.

Mr. B. S. Chondhekar, Advocate for the applicants
Mr. V. S. Badakh, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 25th JULY, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 147/2023 registered with Aundha Nagnath Police Station, Dist. Hingoli for the offences punishable under Sections 143, 147, 148, 149, 353, 336, 427, 323, 504, 506 of IPC.

2. The informant is the police personnel who claims to have gone to the resident of the present applicants along with police personnel on 04th May, 2023 at around 01.15 a.m. to arrest son of the applicant. It is alleged that applicants herein raised shouts and therefore neighbours gathered to the spot. There are further allegations to the effect that the

family members of the applicants and the mob gathered at the spot obstructed to the police personnel from discharging their duty. On the basis of these allegations applicants apprehend arrest.

3. Learned counsel for the applicants states that except for the alleged shouts raised by them there is no overt act said to have been committed by the present applicants. Thus, according to him it is not a case of custodial interrogation.

4. Learned APP opposed the said contention by stating that the police personnel had disclosed their identify though they were not in uniform. It is the contention that the present applicants along with other accused person obstructed the police from discharging their duty and due to the acts committed by these persons the accused could not be arrested. Reference is made to the one of the witness who had stated about applicant No.2 having pelted stones on the private vehicle in which police personnel had been to the spot.

5. Perusal of the first information report indicates that except for the shouts raised by the applicants no other overt act is alleged against them. It is pertinent to note that the police personnel went to the house of applicants had wee hour and they were not in uniform. In such

circumstances raising of shouts by them cannot be considered as unnatural conduct. Except for this there is no other overt act alleged against them in the first information report. The statement relied upon by the learned APP is recorded after more than period of one month of the occurrence of the incident. Hence hardly any evidentiary value can be attached to such statement. Nothing is to be recovered at the instance of the present applicants. There are no criminal antecedents against them. Hence application is allowed in terms of interim order dated 13th June, 2023. Applicants to appear before the Investigating Officer as and when called by written intimation.

(R. M. JOSHI, J.)

ssp