

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

946 ANTICIPATORY BAIL APPLICATION NO.1079 OF 2023

SHAYMKANT ASARAM PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Anudeep Dilip Sonar
APP for Respondent – State : Ms. R.P. Gour
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CORAM : R. M. JOSHI, J.
DATE : 13th JULY, 2023

PER COURT :

. Applicants are apprehending arrest in connection with Crime No.88 of 2023 registered with Nardana Police Station, Tal. Shindkheda, Dist. Dhule for offences under Section 326, 327, 324, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code.

2. Informant - Vishal Khairnar reported incident occurred on 03.04.2023 at around 08:15 p.m. wherein applicants and co-accused came in front of his house and they abused him. It is alleged that around 41 persons came with sticks in their hands and they assaulted brothers of informant namely Pritam, Namdevo and Liladhar. The report further states that Vinod - applicant herein

caused assault with *Pawdi* (iron spade). It, however, does not state as to on whom assault was caused. There was also allegation that Vinod and Shamkant (other applicant) snatched gold chain from neck of informant.

3. Learned counsel for applicants states that in respect of same incident another First Information Report is registered which indicates that in fact applicants therein had assaulted. He drew attention of this Court to the order dated 25.05.2023 passed by the learned Additional Sessions Judge, Dhule in Criminal Bail Application No.348 of 2023 wherein alleged injured in the present crime, Pritam was granted anticipatory bail with the observations that there is political rivalry between two groups owing to the Grampanchayat election and that inference was drawn that it could be a case of false implication. He further contended that with similar allegations of snatching of gold chain, the said accused was enlarged on anticipatory bail.

4. Learned APP opposed the application by referring to injury certificate of Pritam indicating that he sustained fracture injury.

It is further argued that though it is not mentioned in the FIR about assault caused by Vinod on Pritam, however one can infer therefrom that said assault caused by the applicant - Vinod on Pritam. She also argued that for the purpose of recovery of gold chain, the custodial interrogation of applicants is necessary. She also made reference to the same order as referred by learned counsel for applicant to point out that there was inconsistency in the statement with regard to the snatching of chain and which was resulted in giving benefit thereof to the said accused.

5. There is no scope of drawing inferences particularly against accused persons as sought to be contended by learned APP in view of the fact that in First Information Report no specific allegation is made about applicant - Vinod causing assault on Pritam. Apart from this fact, perusal of Investigation papers does not show statement of injured – Pritam. The other statements of witnesses are nothing but copy paste of the First Information Report. Thus, there is no evidence on record at this stage to hold that applicant - Vinod has caused injury to Pritam. There is allegation that 41 persons came with sticks and they caused assault on Priam and others. Thus causing of injury by

any one of them cannot be ruled out.

6. As far as allegation of snatching of gold chain by both applicants is concerned, these applicants are also entitled to get benefit of the observations made by the learned Sessions Judge in the counter complaint wherein it is candidly held that it is the case of political rivalry and hence false implication cannot be ruled out. In view of this, application deserves to be allowed. Hence, following order:

ORDER

- (i) In the event of arrest of applicants in connection with Crime No.88 of 2023 registered with Nardana Police Station, Tal. Shindkheda, Dist. Dhule for offences under Section 326, 327, 324, 143, 147, 148, 149, 323, 504, 506 of Indian Penal Code, 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 each.
- (ii) Applicants be treated in custody of police for the purpose of recovery, if any and directed to attend concerned police station once in a week till filing of 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]
JUDGE

GGP