

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1072 OF 2023

1. Saraswati w/o Radhakisan Gawande
 2. Mohini w/o Sandip Gawande
 3. Chandrakala w/o Mohan Gawande
 4. Mangal w/o Changadev Gawande
 5. Vidya w/o Dattatray Gawande
- Applicants

Versus

The State of Maharashtra & another

Respondents

Mr. M. R. Khutwad, Advocate for the applicants.
Mrs. R. P. Gour, APP for the State.
Mr. A. D. Ostwal, Advocate for the informant.

CORAM : R. M. JOSHI, J.
DATE : 2nd AUGUST, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 0621/2023, registered with Newasa Police Station, Dist. Ahmednagar, for the offences punishable under Sections 307, 326, 325, 324, 143, 147, 148, 149, 504, 506 of Indian Penal Code and Section 4/25 of Arms Act. Later on, offence punishable under Section

2. Informant reported incident dated 4th June, 2023 at around 12.50 pm when present applicants along with co-accused came to the spot armed with weapons. There are specific allegations against the applicants as well as co-accused as to the manner in which informant, his father Ramesh and other two witnesses were assaulted by them. There is allegation against applicant Mangal that she instigated co-accused to bring petrol and at her instigation petrol was poured on the person of Dnyaneshwar. There is allegation against applicant Vidya that she tried to set Dnyaneshwar on fire.

3. Learned counsel for the applicant states that as per the First Information Report, there are disputes between the parties over the property. He further states that considering the previous dispute, it could be a case of false implication or over implication. He further seeks grant of anticipatory bail to the applicants on the ground that they are ladies.

4. Learned APP opposed the application by relying upon the statements of witnesses as well as the injury certificate. According to her, the role attributed to applicant Saraswati, Mohini and Chanrakala is corroborated by the injury caused to the informant

and witnesses. She also drew attention of the Court to the statement recorded during the course of investigation. According to her, if the entire incident is considered, it shows that serious injuries are caused to the informant and others and for the purpose of recovery of weapons used by the applicants, their custodial interrogation is necessary.

5. Merely because applicants are ladies, they cannot be granted anticipatory bail once their involvement in the serious crime is evident. Though there is dispute between the parties over property, however, there are specific allegations against applicants Saraswati, Mohini and Chadrakala of using iron rod and axe for assaulting informant and Ramesh. Injuries alleged to have been caused by these applicants to the informant and his father get corroboration from the injury certificates placed on record. Having regard to the nature of assault and the injuries caused, it can be said with certainty that the offence under Section 307 of the Indian Penal code is rightly invoked. Since weapons were used by these applicants, learned APP is justified in seeking custodial interrogation of these applicants for the purpose of recovery of weapons. It is pertinent to note that Ramesh had sustained injury of amputation as

well as other grievous injuries. All these facts clearly show that these applicants are not entitled to pre-arrest bail.

6. As far as applicant Mangal is concerned, there is no allegation of any overt act being committed by her except the alleged instigation to pour petrol on the person of Dnyaneshwar. As far as applicant Vidya is concerned, allegation against her is that she tried to set Dnyaneshwar on fire. In this regard, perusal of seizure panchanama of the clothes of Dnyaneshwar shows that there is no mention about the clothes of Dnyaneshwar having smeared with petrol or even smelling petrol. Having regard to the fact that there are disputes between the parties, the possibility of over implication of these applicants cannot be ruled out. Nothing is to be recovered at their instance. Having regard to this, their liberty is protected. Hence the following order :-

ORDER

- (i) Application is partly allowed.
- (ii) Application is allowed qua applicant No. 4 Mangal w/o Changadev Gawande and applicant No. 5 Vidya w/o Dattatray Gawande in terms of the interim order.

(iii) Application is dismissed qua applicant No. 1
Saraswati w/o Radhakisan Gawande, applicant No. 2
Mohini w/o Sandip Gawande and applicant No. 3
Chandrakala w/o Mohan Gawande.

(R. M. JOSHI)
Judge

dyb