

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

ANTICIPATORY BAIL APPLICATION NO.1121 OF 2023

SUDHAKAR SURESH NIKAM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. A. R. Syed
APP for Respondents: Mr. S. W. Munde

...

CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 13, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 141/2023 registered with Muktainagar Police Station, Dist. Jalgaon for the offences punishable under Sections 141, 143, 147, 149, 452, 354B, 337, 327, 324, 323, 504, 506 of the Indian Penal Code.

2. The informant Rahul has reported the incident occurred on 27.04.2023 at around 08.30 pm. According to him, accused persons including present Applicants came to their house, they pelted stones on the house and took away cash and articles. There is allegation against the Applicants and co-accused that they assaulted his wife, father and mother.

3. Learned Counsel for the Applicants states that learned Additional Sessions Judge has granted anticipatory bail to all accused except present Applicants relying upon the statement of wife of informant which is recorded on 29.04.2023. He makes categoric statement that only for the said statement and the allegations made by her against Applicants their anticipatory bail application was rejected and there was no other reason recorded therein.

4. Learned APP opposed the application by submitting that there are specific allegations even against present Applicants of causing assault on the family members of the informant. He drew attention of the Court to the statement of wife of informant who categorically makes allegations against the present Applicants of outraging her modesty.

5. Perusal of the record shows that the informant has lodged the report with specific averment that after the occurrence of the incident he along with his wife and family members went to the hospital. It is his submission that as per FIR informant was present at the spot till entire incident was over. In spite of this,

there is no allegations made in the FIR about the Applicants outraging modesty of his wife in any manner whatsoever.

6. The Counsel for the Applicants has drawn attention of the Court to the report lodged on the side of Applicants against informant. It is his submission that it is only after lodging of the said report wife of the informant made false statement implicating the present Applicants in the crime. He further states that from the FIR itself clear that the wife of the informant was Sarpanch and she was removed from the office after moving no confidence motion against her. It is his contention that owing to the political rivalry this is a case of false implication.

7. The FIR lodged by the informant does not disclose occurrence of any incident of outraging modesty of wife of informant. There is sufficient material on record to indicate that there is political rivalry. Here is the case wherein apparently belated an statement is made by the wife of the informant which could aim at false implication of Applicants in this crime. In fact, learned Additional Sessions Judge ought

to have enlarged the Applicants on bail after considering the fact that the statement of the wife of the informant is not reliable on the face of it, being belated and contrary to her husband's statement.

8. In view of above, application stands allowed by confirming order dated 12th July, 2023.

(R.M. JOSHI, J.)

Malani