

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1195 OF 2023

Kadu s/o Gangadhar Jadhav & others Applicants

Versus

The State of Maharashtra Respondent

Mr. R. B. Narvade Patil, Advocate for the applicants.
Mr. G. O. Wattamwar, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1196 OF 2023

Govind Nivrutti Lihinar Applicants

Versus

The State of Maharashtra Respondent

Mr. R. B. Narvade Patil, Advocate for the applicants.
Mr. G. O. Wattamwar, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 26th SEPTEMBER, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 150/2023 registered with Veergaon Police Station, Tq Vaijapur, Dist. Aurangabad, for the offences punishable under Sections 354(A), 326, 323, 504, 506, 143, 147, 149, 427 of Indian Penal Code.

2. First Information Report has been lodged by Milind Jadhav on 22nd June, 2023 in respect of the incident occurred on 20th June, 2023 at around 9.30 pm. It is alleged by him that the present applicants along with co-accused came to the spot and abused and assaulted his father. They also assaulted him in the said incident. Similarly his cousin brother also sustained injuries in the said incident. It is further alleged that the modesty of his wife was outraged by applicant Govind and that he assaulted on her head with wooden log.

3. Learned counsel for applicants submitted that there are civil disputes between the parties over the easmentary right and in respect of the incident occurred on 20th June, 2023, report was loded by Abasaheb Jadhav on 21st June, 2023. It is contended that the present report is lodged by way of counter blast.

4. Learned APP opposed the application by contending that the injury certificate on record indicates about occurrence of the incident. Thus, it is his contention that this could not be a case of false implication as certainly some incident has occurred on 20th June, 2023. He also drew attention of the Court to the statement of

wife of the informant who has specifically stated about applicant Govind entering their house and outraging her modesty and assaulting her.

5. First Information Report itself shows that there are disputes between the parties and a civil proceeding is also pending. The incident in question has occurred on 20th June, 2023 whereas the report has been lodged on 22nd June, 2023. Delay in lodging report creates doubt about its genuineness. More particularly when there are disputes between the parties over the easmentary right, the Court has to be cautious while appreciating the material on record. This Court finds substance in the contention of learned APP that certainly some incident has occurred on 20th June, 2023 as it can be seen from the injury certificate that the informant and others sustained injuries therein. However, perusal of First Information Report as well as statement of wife of the informant shows that she claimed to have not participated in the incident however, injury certificate indicates about causing of three simple injuries to her. Said injuries are not possible while resisting the assault as sought to be claimed by learned APP. This creates doubt as to whether the incident in question has occurred as alleged in the First Information

Report or this is a case of false/over implication. Record indicates that simple injuries were caused to the informant. As such, offence punishable under Section 326 of the Indian Penal Code made not get attracted to the present case. Appropriate directions to the applicants to appear before the Investigating Officer for the purpose of recovery of weapon if any, would serve the purpose. Applicants would be deemed to be in custody of police for recovery, if any. In view of above, both the applications stand allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb