

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

ANTICIPATORY BAIL APPLICATION NO.1243 OF 2023

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| 1. | Balasaheb s/o. Pralhad Bangar | |
| 2. | Shubham s/o Balasaheb Bangar | ... APPLICANTS |

VERSUS

- | | | |
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| 1. | The State of Maharashtra | |
| 2. | The Superintendent of Police,
Ahmednagar. | ... RESPONDENTS |

Mr. N. B. Narwade, Advocate for the applicants
Mr. S. B. Jadhav, APP for the respondent/State
Mr. A. G. Ambetkar, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 4th DECEMBER, 2023

(Through VC)

P.C. :-

1. At the outset when this Court has shown its disinclination to grant relief to the extent of applicant No.2, learned counsel for the applicants, on instructions, seeks withdrawal of the application. Application stands dismissed as withdrawn to the extent of applicant No.2.

2. Applicant No. 1 apprehends arrest in connection with Crime No. 342/2023 registered with Pathardi Police Station, Tal. Pathardi, Dist. Ahmednagar for the offences punishable under Sections 307, 323, 324, 341, 504, 506, 427 r/w 34 of IPC.

3. On 06/04/2023 Ashok reported incident to the police on 29/03/2023 at about 6.30 pm wherein it is claimed that owing to the previous dispute over the property, the applicants have assaulted him and his wife with axe. In the said incident they sustained injuries and damaged was caused to the motorcycle.

4. Learned counsel for the applicants submits that in fact the wife of applicant No.1 had lodged report against the informant on 29/03/2023 in respect of the incident occurred at 6.30 in which her modesty was outraged by the applicant and others. It is submitted that the present report has been lodged by way of counter blast and considering the possibility of previous dispute between the parties, possibility of false implication cannot be ruled out.

5. Learned APP opposed the application by relying upon the injury certificates of the informant and his wife it is contended that the informant had sustained grievous injury and which makes this application not entertainable.

6. Learned counsel for the informant also opposed the application by contending that there are offences registered against applicant No.1 which disentitled him to seek relief. In response thereto it is contended

by the learned counsel for the applicant No.1 that owing to to the dispute over the property, the applicant's side and informant's side are lodging reports against each other.

7. The incident in question has allegedly occurred on 29/03/2023 at about 6.30 pm whereas the report is lodged on 06/04/2023. Needless to say that the delay in lodging of the report create possibility of false/over implication. More particularly when admittedly there are disputes between the parties over the property, such possibility is not completely ruled out. In the light of this if allegations are seen against the applicant No.1, the allegation made in the first information report do not get corroborated with the injury certificate on record. The grievous injury caused to the informant cannot be attributed to the applicant. Having regard to these facts, the liberty of the applicant No.1 deserves to be protected. For the purpose of recovery of the weapon the applicant be treated in the custody of the police. Application is partly allowed in terms of interim order dated 31st July, 2023.

(R. M. JOSHI, J.)

ssp