

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1277 OF 2023

SHIVAJI GANGARAM MORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. K. L. Tupe
APP for Respondents: Mr. G. O. Watamwar

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 21, 2023

PER COURT :

1. When this Court has shown its disinclination to grant relief to Applicant No. 2 – Ankush, learned Counsel for this Applicant, in instructions, seeks withdrawal of the Application *qua* this Applicant.

2. Application of Applicant No. 2 – Ankush is dismissed as withdrawn.

3. Applicant Nos. 1 and 3 apprehend arrest in connection with with C.R. No. 313 of 2023 registered with Gondi Police Station, Dist. Jalna for the offences punishable under Sections 326, 323, 504, 506 and 34 of the Indian Penal Code.

4. Perusal of the FIR shows that on 28.06.2023 at

about 05.30 pm Applicants and co-accused came to the spot and started abusing informant by alleging that he has stolen knife. When he denied to have committed theft, he was assaulted by accused persons with spear and stick. There is allegation against co-accused Ankush caused assault on the left hand of the informant with spear. There is allegation of causing other injuries to the informant and mother of the informant.

5. Learned Counsel for the Applicants submits that as far as Applicant Nos. 1 and 3 are concerned, offence under Section 326 of IPC does not get attracted for the reason that they are not responsible for causing grievous injuries to the informant.

6. Learned APP opposed the said submissions by contending that all accused persons came together at the spot and caused assault and it is immaterial as to whether no injury is caused by anyone of the Applicants.

7. Perusal of the FIR shows that allegation of theft of knife of incident in question is occurred. Though Applicant Nos. 1 and 3 were said to have spear in their hands, no serious injury is caused by them to

the informant. In such circumstances, the fracture injury cannot be made attributable to them.

8. In view of above, application is allowed only to extent of Applicant Nos.1 and 3 by confirming order dated 03rd August, 2023 with condition that they shall attend the concerned police station once in fortnight till filing of the charge-sheet.

(R.M. JOSHI, J.)

Malani