

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

ANTICIPATORY BAIL APPLICATION NO. 1287 OF 2023

1. Ganesh s/o Anil Kusmude
 2. Anil s/o Radhakisan @ Ramkisan Dhanwade
 3. Bipin s/o Sudam Kusmude
 4. Rushikesh s/o Balu Supare
 5. Swapnil s/o Vijay Gunjal
 6. Rupesh s/o Vilas Gunjal
- ... APPLICANTS

VERSUS

1. The State of Maharashtra
 2. XYZ
- ... RESPONDENTS

Mr. A. D. Ostwal, Advocate for the applicants
Mr. G. O. Wattamwar, APP for the respondent/State
Mr. A. B. Narwade, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.
DATE : 13/10/2023

ORDER :-

1. Applicants apprehend arrest in connection with Crime No. 419/2023 registered with Rahuri Police Station for the offences punishable under Sections 143, 147, 148, 149, 323, 326, 324, 504, 506 of IPC and Section 11(1) and (2) and 12 of POCSO Act.
2. Kisan Bhite, informant reported to the police that on 19th April, 2023 at about 11.33 a.m. while he was at home, his niece and her

friend told him that while they were coming from school unknown boys were teasing them. At about 11.45 informant seen one of those boys and hence he questioned him as to why they are causing harassment to the girls. At that time informant was threatened by the said boy. He called applicants and others to the spot. At that time 8 to 10 persons came and assaulted him with wooden stick, belt, fighter. There is allegation in the first information report that co-accused Bipin threatened him. In the said incident informant sustained injuries and was taken to Rural Hospital, Rahur and from there was referred to Civil Hospital, Ahmednagar and finally he was admitted to Apex Hospital.

3. Learned counsel for the applicants submits that it is a case of false implication of the applicants and others and that the informant himself has criminal history. By referring to the order passed by the Addl. Sessions Judge in Cri. Bail Application No. 650 of 2023 pertaining to the co-accused it is submitted that as recorded therein there is already recovery of all weapons and that the investigation is practically over. Thus, according to him custodial interrogation of the applicants is not necessary. By referring to the first information report he submits that there is no allegation against the present applicants that they are the one who had teased the girls. It is claimed that they have no

criminal antecedents.

4. Learned APP opposed the application by contending that in the instant case the informant has sustained number of injuries in the said assault which includes grievous injury on his nose and upper lips with fracture of nasal bone. It is submitted that considering the fact that number of persons gathered together and caused assault on the informant is sufficient fact to deny pre arrest bail to the applicants.

6. There is no dispute about the fact that the present applicants are no involved in the incident of teasing caused to the niece of the informant. As rightly pointed out by the learned counsel for the applicants that there are no specific overt acts alleged against the applicants of causing assault on the informant. It is therefore difficult to attribute the grievous injury to any one of them. As observed by the learned Addl. Sessions Judge while granting regular bail to the one of the co-accused, all weapons allegedly used in the crime are already seized. Thus, nothing has to be recovered at the instance of the present applicants. Applicants have no criminal antecedents. They are not likely to flee from justice. In such circumstances, appropriate direction to them to attend concerned police station would be sufficient

for further investigation remained if any. Hence the following order:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicants in connection with Crime No. 419/2023, registered with Rahuri Police Station, Taq. Rahuri, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 149, 323, 326, 324, 504, 506 of IPC and Section 11(1) and (2) and 12 of POCSO Act, they shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) each with one surety in the like amount.
- (iii) They are directed to appear before Investigating Officer as and when called.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.

(R. M. JOSHI, J.)

ssp