

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1310 OF 2023

Savta Shridhar Wagh And Another ...Applicants

Versus

The State Of Maharashtra And Another ...Respondents

Mr. N.B. Narwade, Advocate for applicants.

Mr. V.S. Badakh, APP for respondent-State.

Mr. S.B. Gastgar, Advocate for informant.

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CORAM: R.M. JOSHI, J

DATE : OCTOBER 31, 2023

PER COURT :

1. When this Court has shown disinclination to grant relief to applicant No. 1, learned counsel for the applicants on instructions seeks withdrawal of the application to the extent of applicant No. 1. Application is therefore dismissed as withdrawn to the extent of applicant No. 1.

2. Applicant apprehends arrest in connection with with C.R. No. 687 of 2023 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 307, 326, 325, 324, 149, 504, 506 of the Indian Penal Code.

3. First Informant is a injured who has sustained injury in the incident occurred on 30.06.2023 at 11.00 am. In the report itself he has stated about the dispute between the parties and filing of criminal

cases against each other. So far as the incident in question is concerned there is allegation against the present applicant that he used knife for causing injury to the informant. The allegation against the co-accused is that due to the injury caused by him there is amputation of left ear.

4. Learned counsel for the applicant submits that there are disputes between the parties which can be ascertained not only from the FIR but also from the report lodged by wife of applicant No. 1 on 19.05.2023. He submits that the intention of the informant is to falsely implicate the applicant and his family members which can be found from the fact that one of the person who was not present at the spot of the incident in spite of it he has arraigned as accused. It is thus his contention that this can be the case of false/over implication.

5. Learned APP opposed the application by relying upon contents of FIR and statements of witnesses. It is his contention that the injury of the informant clearly shows that the same is a grievous injury and hence, applicant is not entitled for protection.

6. There is no dispute about the fact that there are disputes between the parties and it is reflected in the FIR that police complaints are lodged by the parties against each other. There is prima facie substance in the contention of learned counsel for the applicant that it could be the case of exaggeration/over implication in view of the fact

that the person who is allegedly not present at the spot of incident has been arrayed as accused. In this background, if the allegation against the applicant in the FIR is considered, then it shows that the injury which is attributable to him is simple in nature. The injury certificate placed on record indicates that the grievous injury caused to the informant cannot be attributed to the present applicant.

7. Having regard to these facts, application deserves to be allowed. For the purpose of recovery of weapon, applicant be deemed in the custody of police. Application is allowed in terms of interim order dated 08.08.2023.

[R.M. JOSHI, J.]