

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

ANTICIPATORY BAIL APPLICATION NO.1326 OF 2023

Bhushan Ravindra Pawar And Others ...Applicants

Versus

The State Of Maharashtra ...Respondent

Mr. V.B. Patil, Advocate for the applicants.

Mr. S.P. Sonpawale, APP for State.

Mr. P.B. Patil (Borse) with Mr. C.P. Patil, Advocate for the informant.

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 31, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 48 of 2022 registered with Kasoda Police Station for the offences punishable under Sections 143, 147, 149,307,324, 504, 506 of the Indian Penal Code.

2. First informant Jagdish alias Ganesh as claimed by the learned counsel for the applicants is the same person. It is stated that incident occurred at 9.30 pm alleging that the procession was stopped by Ravi Pawar and at that time present applicants assaulted him with sword. It is also stated that Bablu Patil and Chandrashekhar assaulted with sticks.

3. Learned counsel for the applicants submits that in fact the present informant is the one who had caused the assault on the

applicants. He has referred to two reports lodged in respect of said incident on 04.05.2023. It is his contention that in order to give counter blast the said reports against him, present information is recorded with police on 05.05.2023. It is his submission that in fact, informant had assaulted the applicants and others and the possibility of causing injury during the said assault cannot be ruled out.

4. Learned counsel for the informant does not dispute the fact that Jagadish and Ganesh are the same person. However, it is his contention that the informant was taken to the hospital after he was assaulted in the said incident and therefore delay in lodging FIR is not fatal. It is further the submission that applicant No. 3 has directly approached this Court without exhausting the remedy before the Sessions Court and hence application deserves to be dismissed. He also submits that there are criminal antecedents against the applicant No. 1.

5 Learned APP opposed the application contending that statement of witnesses as well as injury certificate indicates that the grievous injury is caused to the informant and as such offence under section 326 IPC is made out. Thus, it is the contention that it is not the fit case for grant of bail as recovery of weapon is also involved therein.

6. Perusal of record indicates that against the present informant two reports came to be lodged with concerned police station

in respect of incident occurred on 04.05.2023 wherein it is alleged that informant is the assailant against the applicants and others. In this background, the delay in lodging FIR by informant assumes importance. Though, it is alleged in the FIR that injury was caused on the head by the applicant No. 1 with sword, there is no allegation against applicant No. 3 causing any assault, at least FIR does not disclose the name of assailant. In this background, perusal of injury certificate shows that grievous injury is said to have been caused to the little finger of right hand of the informant. Pertinently, there are specific allegation against the informant that he was involved in assault. There is material on record to indicate that the Ravi Pawar sustained serious injuries in the said incident. Thus, possibility of said injury to little finger of the right hand to the informant while assaulting the said Ravi Pawar cannot be ruled out.

7. This Court finds substance in the contention of learned counsel for the applicants that this is nothing but the report by way of counter blast to save himself from the allegation of the applicants.

8. So far as objection raised by learned counsel for the informant about maintainability of application of applicant No. 3 is concerned, principally his submission deserves to be accepted that applicant is required to approach the Sessions Court for anticipatory bail before filing application before this Court.

9. In the peculiar facts of the present case, when this Court finds that no role of applicant No. 3 is in the crime and co-accused against whom greater role is assigned are entitled for anticipatory bail, in the peculiar facts, there is no reason to call upon the applicant No. 3 to approach the Sessions Court. Therefore, the liberty of the applicants deserve to be protected. Hence, the order.

ORDER

- (i) In the event of arrest of the Applicants in connection with C.R. No. 48 of 2022 registered with Kasoda Police Station for the offences punishable under Sections 143, 147, 149, 307, 324, 504, 506 of the Indian Penal Code, 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.
- (ii) They shall attend the concerned police station as and when required.
- (iii) They shall not contact the witnesses directly or indirectly.
- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) They are further directed to cooperate the investigating agency for further investigation.

[R.M. JOSHI, J.]