

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

**BAIL APPLICATION NO. 1539 OF 2023
WITH
CRIMINAL APPLICATION NO.3478 OF 2023**

1. Sham Dwarkanath Dhole

2. Rahul Shivaji Ingale

... Applicants

Versus

1. The State of Maharashtra

... Respondent

...

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for the Applicant

Mr. K. S. Patil, APP for Respondent/State

Ms. V. S. Ghanekar, Advocate for the informant

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 14.09.2023

PER COURT :

1. Heard the learned Advocate for the applicant, learned APP for the respondent/State and the learned Advocate for the informant.
2. By this application, the applicants seek regular bail in connection with Crime No.397/2023 registered with Rahata Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504 and 506 of the Indian Penal Code [for short 'IPC'] and Section 4/25 of the Arms Act, 1959 [for short 'the Act'].

3. The investigation was set in motion on the basis of the information given by one Swapnil @ Shivaji Prabhakar Nawale, wherein, it is alleged that, on 28/07/2023, the accused persons arrived at the spot of incident. The accused – Manja @ Sunil Baban Waykar was holding a sickle in his hand. Similarly, the accused – Ravi Raosaheb Ingale was holding a chopper. It is alleged that, they assaulted the brother of the informant, namely, Bablu @ Vikrant on his head. When his uncle and other family members were trying to separate them, the other accused persons, who were holding wooden log and iron rods in their hands, started assaulting them. It is also alleged that, the present applicants were amongst the assailants. They assaulted the uncle of the informant and friend of the informant, namely, Shinde. On the basis of aforesaid information, Crime No.397/2023 has been registered with Rahata Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504 and 506 of IPC and Section 4/25 of the Act. The applicants are arrested on 29/07/2023. Their plea for grant of bail has been rejected by the Sessions Court, Kopargaon vide order dated 21/08/2023. Hence, the present bail application
4. Mr. Mazhar Jahagirdar, learned Advocate appearing for the applicants would submit that there are counter FIRs in respect of one and the same incident. The applicants are behind the bar since 29/07/2023. He would submit that considering the allegations in the FIR, a common role is attributed against the applicants and other accused persons that there were holding wooden log in their hands and they caused injuries to the uncle

of the informant and friend – Shinde. He would therefore submit that no specific role attributed against the applicants and based on omnibus statement, they have been falsely implicated in the crime. Therefore, he urge to grant bail to the applicants.

5. Learned APP as well as learned Advocate appearing for the informant have vehemently opposed the application. They would point out that apart from Section 307, offences punishable under Sections 149 and 147 are invoked. It is the case of free fight. Because of the assault made by the main culprits, the serious injuries have been caused to victim. Even two persons, namely, Lalit Shinde and Sharad Nawale have sustained the injuries on account of assault that can be attributed against the applicants. As such, participation of the applicants in the commission of offence cannot be denied. Even their role cannot be separated from the act of the main assailants. Hence, they urge to reject the application.
6. Having considered the submissions advanced, apparently, two FIRs are lodged in respect of one and the same incident and there are counter allegations by two groups against one another. The perusal of FIR in the present case shows that the allegations of main assault are against accused – Manja @ Sunil Baban Waykar and Ravi Raosaheb Ingale, who assaulted injured Bablu @ Vikrant using deadly weapon. So far as the allegations against the applicants are concerned, they are general and omnibus. Many accused persons are named to attribute the assault by them to the uncle of the informant and his friend – Shinde. The

learned Advocate for the informant has placed on record an injury certificate. The perusal of the same would show that there are injuries caused by hard and blunt object to the victim. However, they are discharged on the same day. The applicants are behind the bars from 29/07/2023. On specific query, learned APP informs that previously in the year 2015, two offences under Sections 323 and 324 of IPC and Section 65 of the Bombay Prohibition Act are registered against the applicant – Rahul Ingale. Even considering the aforesaid material, the further detention of the applicants may not be necessary. However, as rightly pointed out by the learned Advocate appearing for the informant, it is necessary to protect the interest of the prosecution and put certain conditions in bail order. Therefore, the case is made for grant of bail subject to conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, namely, (1) Sham Dwarkanath Dhole and (2) Rahul Shivaji Ingale be released on bail in connection Crime No. 397/2023 registered with Rahata Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 324, 323, 504 and 506 of IPC and Section 4/25 of the Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand) each on the following conditions:
 - a) The applicants shall not tamper with the prosecution evidence in any manner.
 - b) They shall not establish the contact with the witnesses.

- c) They shall not enter Taluka Rahata, District Ahmednagar, till filing of charge-sheet.
- d) They shall furnish the details of their addresses and contact numbers to the police.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer