

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1640 OF 2023

KSHITIJ HARIBHAU KAPSE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. S. B. Bhapkar  
APP for Respondents: Mr. S. P. Sonpawale

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CORAM : R.M. JOSHI, J  
DATE : OCTOBER 30, 2023

**PER COURT :**

1. Applicants apprehend arrest in connection with with C.R. No. 909 of 2023 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 147, 148, 143, 307, 324, 149 of the Indian Penal Code.

2. Informant/injured reported to the police on 08.09.2023 about incident occurred on 06.06.2023. According to him, there are disputes between the parties over the use of water in the common well. Due to which, the said incident occurred in which allegedly Applicant No. 1 has assaulted informant on his chest and thigh with knife. It is alleged that other accused caused assault on him with the handle of spade.

3. Learned Counsel for the Applicants submits that from the FIR itself it is clear that there are dispute between the parties over the use of water in the common well. According to him, counter report was lodged in respect of same incident. He further states that it is a case of false implication of the Applicants.

4. Learned APP opposed application by placing reliance on the injury certificate. According to him, injuries caused to the informant over his chest as well as thigh correlate to the allegations against Applicant No. 1 of using knife for causing said assault. It is also stated that the statements of witness indicates that all Applicants assaulted informant. Hence, it is not a fit case for grant of relief.

5. Admittedly, there are disputes between the parties. Some incident has certainly occurred on 06.06.2023 in view of the report lodged by both sides. It appears to be a case of free fight between two groups. In such circumstances, causing of abrasion to the chest of the informant for any reason other than

the knife used by Applicant No. 1 cannot be ruled out. As far as injury caused to the thigh is concerned, the same is simple in nature. In such circumstances, even against Applicant No. 1 offence under Section 307 of IPC *prima facie* is not made out. As regards other Applicants, though there are allegations that others also assaulted informant, however, injury certificate does not support said allegations. Hence, possibility of false implication cannot be ruled out. Applicants have no criminal antecedents.

6. In view of above, application stands allowed. Hence, the order:

#### O R D E R

- (i) In the event of arrest the of Applicants in connection with with C.R. No. 909 of 2023 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 147, 148, 143, 307, 324, 149 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 with written intimation.
- (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.)

Malani