

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1663 OF 2023

Balasaheb @ Balkrushna
s/o Babasaheb Ghorpade

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. N. B. Narwade, Advocate for the applicant.
Mr. V. S. Badakh, APP for the State.
Mr Tushar Shinde, Advocate for informant.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1678 OF 2023

Sushil Subhash Ghorpade
(wrongly mentioned as
Sushil Babasheb Ghorpade)

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. Joydeep Chatterji, Advocate for the applicant.
Mr. V. S. Badakh, APP for the State.
Mr. Tushar Shinde, Advocate for informant.

CORAM : R. M. JOSHI, J.
DATE : 7th NOVEMBER, 2023.

ORDER

1. Applicants in both applications apprehend arrest in connection with Crime No. 760/2023, registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar for the offences punishable under Sections 307, 326, 324, 143, 147, 148, 149, 504, 506 of Indian Penal Code and Section 4/25 of Arms Act.

2. First informant is the Sarpanch of village Vaijubabhulgaon. According to the informant, there is rivalry between applicants and informant over Gram Panchayat election. It is also claimed that there are disputes between the parties over the issue of pipeline going through agricultural land. Informant claims to had been Sarpanch even for the period from 2012 to 2017. She claims that applicant Balkrushna used to threaten her. It is alleged in the First Information Report that on 22nd July, 2023 at around 4.30 to 4.45 pm, present applicants accompanied by co-accused had been to the house of informant with weapons. They abused informant and her family members. In the incident of assault, applicant Balkrushna assaulted brother-in-law of informant, Babu Ghropade, on his head with a sword. Co-accused Dnyaneshwar, Kishor and Nitin caused assault on the son and husband of the

informant. When informant tried to intervene, applicant Sushil assaulted on her forehead with iron rod.

3. Learned counsel for the applicants submit that according to the informant herself, there are disputes between the parties over election so also dispute exists on the issue of pipeline going through the agricultural land. It is submitted that this is a case of false/over implication. Referring to the video played during the course of hearing, it is submitted that none of the accused seems to have been carrying any weapon and as such there is no substance in the allegation that the assault was caused with weapon particularly by the present applicants. It is also argued that owing to the simple injuries caused to the informant and witnesses, offences under Sections 307 and 326 do not get attracted.

4. Learned APP and learned counsel for the informant opposed the application by referring to the statement of witnesses and according to them, accused were carrying weapons and with those weapons assault was caused. Learned counsel for informant submits that the nature of injury becomes immaterial and the intention of the accused needs to be seen that they came at spot and

caused assault. It is also argued that Balkrushna has criminal antecedents and hence, it is not a fit case for grant of anticipatory bail.

5. The fact that there exists prior dispute between the parties more particularly there is political rivalry is revealed from the First Information Report. Needless to say that pre-existing disputes/enmity become cause for commission of crime as well as it is a reason for false/over implication. Perusal of the investigation papers though show that statement of witness indicates that accused were carrying weapon however, video played before the Court does not show so. Though it is sought to be argued by learned counsel for the informant that this video does not record entire record, however, it is pertinent to note that whatever incident has been recorded nowhere indicates use of weapons by the applicants. In the light of this, perusal of injury certificate shows that isolate injuries were caused to the witnesses which are simple in nature. As rightly pointed out by learned counsel for applicants that it does not stand to any reason as to how such simple injuries are caused when the assault is said to have been with deadly weapons. Hence, possibility of false/over implication is not ruled out. As far as antecedents are concerned,

though there are criminal antecedents against applicant Balkrushna however, when this Court prima facie finds that it could be a case of over implication, liberty of the applicant deserves to be protected. Apprehension of the applicants can be taken care by directing applicants to attend concerned police station once in a week till filing of the charge sheet. Hence, the following order :-

ORDER

- (i) Both the applications are allowed.
- (ii) In the event of arrest of applicants in connection with Crime No. 760/2023, registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar, for the offences punishable under Sections 307, 326, 324, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and Section 4/25 of Arms Act, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one surety each in the like amount.
- (iii) They shall attend the concerned police station once in a week till filing of the charge-sheet.
- (iv) They shall not contact the witnesses directly or indirectly.

(v) They shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge

dyb