

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1798 OF 2022

Ganesh Panditrao Kharad And Others ...Applicants

Versus

The State Of Maharashtra And Another ...Respondents

Mr. R.V. Gore, Advocate for applicants.

Mr. A.A. Jagatkar, APP for respondent.

Mr. P.S. Salunke, Advocate for informant/Assist to PP.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th FEBRUARY, 2023

ORDER :

1. Learned advocate for the applicants after arguing on merits and when this Court was not inclined to grant relief, on instructions seeks permission to withdraw the application of applicant No. 4. Permission granted. Application of Applicant No. 4- Sachin Kharad is dismissed as withdrawn.

2. Applicants apprehend arrest in Crime No. 440 of 2022, registered with Paithan Police Station, Aurangabad, for offence punishable under sections 307, 324, 143, 144, 147, 148, 149 and 506 of the Indian Penal Code.

3. FIR is lodged by Nanasaheb Kharad against 10 accused persons alleging that all accused persons assaulted Satish Kharad and Nandu Kharad with iron rod and sticks. He tried to intervene in the quarrel, at that time, accused Arjun hit iron rod on his head. Accused Jalindar assaulted him with the help of stick. His cousin Laxman, Shrirang Kharad (father of applicant) and Sambhaji Kharad were assaulted with sticks and iron rod.

4. Heard the learned advocate for the applicants, learned Additional Public Prosecutor for respondents and learned advocate for informant. Perused the investigation papers.

5. There are cross complaints lodged by both the parties against each other. Applicants side has lodged FIR at Crime No. 441 of 2022, registered with Paithan Police Station, under sections 307, 324, 143, 144, 147, 148, 149, 504 and 506 of IPC, against informant's side. It appears that accused Avinash, Santosh Kharad from the present FIR is on ventilator.

6. Allegations of assault with iron rod and sticks are made against accused Avinash and Bhagwat. General allegations

are levelled against other accused including present applicants that they used sticks in the assault. Injury certificates of injured corroborate the allegations in the FIR about assault with iron rod and sticks. No specific role, however, is attributed to the present applicants in the assault.

7. In the FIR lodged by applicant's side, three accused persons from informant's side are granted protection by this Court. There appears series of FIR lodged by both sides against each other. It, therefore, prima facie appears that there was free fight between two groups in which persons from both the sides were injured.

8. Applicants were granted interim protection and directed to attend the concerned police station. They have attended the police station and have co-operated in the investigation. Nothing is to be recovered from the applicants. Pre-trial custodial detention of the applicants, in the facts of the present case is not necessary.

9. In the result, application is allowed.

10. In the event of arrest of applicants in Crime No. 440 of 2022, registered with Paithan Police Station, Aurangabad, for offence punishable under sections 307, 324, 143, 144, 147, 148, 149 and 506 of the Indian Penal Code, they shall be released on executing personal bond of Rs. 15,000/- each with one surety each in the like amount.

11. Till filing of charge sheet, applicants shall attend the concerned police station as and when called by investigation officer and shall co-operate in the investigation. Applicants shall not indulge in similar offence in future. Applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]