

Versus

The State of Maharashtra ... Respondent

.....
Ms. Rui Danawala instructed by Mr. Umesh Mankapure for the
Applicants.

Ms. Rutuja Ambekar, APP for the State.

HC Ramchandra Khot, Kavthemahankal Police Station, Sangli present.

CORAM: N.R. BORKAR, J.

DATED : 30 JANUARY 2023

P.C. :-

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicants are apprehending their arrest in Crime No. 100 of 2021 registered at Kavathemahankal Police Station, Sangli for the offences punishable under Sections 143, 147, 148, 149, 323, 326, 324, 504, 506 of Indian Penal Code and Section 135 of the Maharashtra Police Act.

3. I have heard the learned Counsel for the applicants and the learned APP for the State.

4. On 15 April 2021, this Court passed the following order :

“1. The applicants are apprehending arrest in C.R. No.100 of 2021 registered with Kavathemahankal Police Station, District-Sangli for the offences punishable u/s. 143, 147, 149, 323, 326, 324, 504, 506 of Indian Penal Code and u/s. 135 of Maharashtra Police Act.

2. The First Information Report (for short “FIR”) was registered on 06.03.2021. The alleged incident had occurred on 04.03.2021. The complainant has alleged that the accused had formed unlawful assembly and assaulted the complainant and others by fist blows and sticks.

3. Learned advocate for the applicants submitted that FIR is false which was lodged belatedly. The complainant’s side was aggressor. The cause of the disputes is defection by one of the member from the complainant’s side to the party of the applicants during the Gram Panchayat election. It is submitted that one of the persons from the applicants’ side was murdered and in respect to the said incident which had occurred on the same day, the FIR has been registered against the opponent/complainant in the present case for the offence under Section 143, 147, 148,149, 302,323, 326, 324, 504, 506 of IPC and under Section 37 (1), 37(3) and 135 of Maharashtra Police Act and under section 123 of Peoples Representation Act, 1951.

4. Learned APP submitted that the applicants are attributed specific overt act. The complainant and the others were assaulted by sticks. Medical certificate issued by Government Hospital as well as Private Hospital support the version of the complainant.

5. From the FIR which was registered by Ankush Janardhan Patil, it is apparent that the opponent had assaulted the complainant and others, which has resulted death of one person. The said FIR is registered first in point of time. The FIR which has been lodged against the applicants was registered on 06.03.2021.

6. *Considering the factual aspects, presently interim protection can be granted to the applicants.*

ORDER

(i) *In the event of arrest of the applicants in connection with C.R. No.100 of 2021 registered with Kavathemahankal Police Station, District-Sangli, the applicants be released on bail on executing PR bond in the sum of Rs. 20,000/- each with one or more surety in the like amount;*

(ii) *The applicants shall appear before the investigating officer on 21st, 22nd and 23rd April 2021 between 11:00 a.m. and 01:00 p.m.*

(iii) *This interim protection granted till the next date of hearing.*

(iv) *Stand over to 27.04.2021.”*

5. There is a cross FIR against the complainant and others inter-alia for the offence punishable under Section 302 of the IPC. The learned APP on instructions submits that applicants do not have criminal antecedents. Considering the overall facts and circumstances of the case and as there is a cross FIR, I am inclined to allow the present application. In the result, following order is passed :

(i) Interim order passed by this Court dated 15 April 2021 is hereby confirmed.

(ii) The applicants shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.

(iii) The application is disposed of.

(N.R. BORKAR, J.)