Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1317 OF 2023

SANTOSH SUBHASH KULKARNI
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Date: 2023.12.22 17:32:44 +0530

Vijay Ganpati Chopde ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 1287 OF 2023

1. Abhay Vishnu Chopade
2. Santosh Waltyer Chopade ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi, i/b Shivani Kondekar, for the Applicant in ABA/1317/2023.
Mr. Sachin Rajepandhare, i/b Nikita Kamble, for the Applicants in ABA/1287/2023.
Mr. S. H. Yadav, APP for the State/Respondent.
PSI N. B. Patil, Kodoli Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 18th DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. These applications are for pre-arrest bail in connection with CR No.42 of 2023, registered with Kodoli Police Station, Kolhapur, for the offences punishable under Sections 143, 147, 326, 323, 148, 149 and 504 of the Indian Penal Code, 1860 ("the Penal Code").

3. There was a dispute between the first informant and the applicants in respect of a property situated at Kodoli. On 17th March, 2023, while the first informant was at the said premises, at about 1.00 am., the applicants and the co-accused came at the said site and started assaulting the first informant by fist and kick blows and sticks with which they were armed. The first informant claimed to have sustained injuries on his head and left wrist. His brother Shamrao and sister Nirmala came to his rescue, they were also abused and intimidated.

4. The learned Counsel for the applicants submitted that the material on record does not indicate that the first informant had sustained any grievous injury.

5. When the applications have listed before the Court, this Court had granted interim protection while directing the applicants to join in the investigation.

6. I have perused the injury certificates tendered by the learned APP. *Prima facie* it appears that the injury was on scalp. Hematoma was noted at right frontal scalp. There was no evidence of fracture or intracranial hematoma. In the circumstances of the case, the question as to whether the offence punishable under Section 326 of the Penal Code can

be said to have been made would be a matter for adjudication at the trial. Since the very applicability of the provisions contained under Section 326 of the Penal Code *prima facie* appears to be debatable and the applicants are on interim protection and they have appeared before the Investigating Officer, I am inclined to allow these applications.

7. Hence the following order:

: O R D E R :

(i) In the event of arrest of Vijay Ganpat Chopde, applicant in ABA/1317/2023 and Abhay Vishnu Chopade and Santosh Waltyer Chopade, applicants in ABA/1287/2023, in CR No.42 of 2023, registered with Kodoli Police Station, Kolhapur, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

(ii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

(iii) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Applications stand disposed.

[N. J. JAMADAR, J.]