

assaulted the first informant Shankar Dongre, committed rioting armed with dangerous weapons, caused grievous hurt to the first informant and also attempted to commit murder.

4. The first informant reported that on 18th March, 2023 while he was riding Bajaj Pulsor motor-cycle, he was chased by the motor-cyclists, who were riding three motor-cycles. He was pushed by one of the riders. He fell down. One of them was armed with iron rod. Others had sticks. The assailants assaulted him by means of iron rod and sticks. Ravindra Bangar was one of those assailants. Rest of the assailants had masked their faces. Therefore he could not identify rest of the assailants. Ravindra Bangar was armed with a country made revolver.

5. By an order dated 26th April, 2023 this Court had granted interim protection.

6. I have heard Mr. Chetan Damre, learned counsel for the applicant, Mr. M.G.Patil, learned APP and Mr. Yash Fadtare, learned counsel for Intervener. I have perused the supplementary statement of the first informant and the injury certificate.

7. Evidently, only one assailant was named in the first information report. The first informant had stated that since rest of the assailants were wearing the mask he could not identify them. Learned APP submitted that on the basis of CCTV footage, the first informant later on identified rest of the assailants and supplementary statement of the first informant came to be recorded. In the supplementary statement, first informant asserts that he could identify the assailants on the basis of their features.

8. The injury certificate of the first informant indicates that out of 8 injuries suffered by the first informant, 7 were simple injuries and a CLW on the right hand was designated as grievous.

9. The situation which thus obtains is that the question of identity of the assailants would arise for consideration. When the assailants except Ravindra Bangar, were wearing mask and the first informant could not identify them at the time of alleged occurrence, the question as to whether the applicants were the members of the unlawful assembly in the prosecution of the common object of which the first informant came to be assaulted would be a matter for trial. Moreover, the injury certificate does not indicate that the first informant had sustained grievous injury on any vital part of the

body. A CIW to the right hand was designated as grievous injury. Only one of the assailant, was armed with iron rod. Whether the offence punishable under section 307, or for that matter under section 326 of Indian Penal Code, 1860, is made out, may also warrant adjudication.

10. In the aforesaid view of the matter, at this stage, the custodial interrogation of the applicant does not seem warranted for effective investigation.

11. The learned counsel for the first informant submitted that the first informant had lodged a non cognizable complaint against applicant No. 1 as the later had threatened the first informant with dire consequences if the first informant does not withdraw the prosecution.

12. The apprehension on the part of the prosecution and the first informant about tampering with evidence and threatening the witnesses can be taken care of by imposing conditions. Hence, I am inclined to exercise the discretion in favour of the applicants.

Thus, the following order.

ORDER

- 1] Application stands allowed.
- 2] In the event of arrest in connection with C.R. No. 72 of 2023 registered at Yeola City police station the applicants be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.
- 3] The applicants shall cooperate with the investigation and attend Yeola City police station, on every alternate Sunday in between 10 am to 12 noon, for a period of two months.
- 4] The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant and any of the prosecution witnesses.
- 5] In the event of breach of any of the conditions, the bail shall be liable to be cancelled.
- 6] It is clarified these prima facie observations are confined to determine the entitlement to pre-arrest bail only.
- 7] In view of disposal of the application, the interim application does not survive and stands disposed.

(N. J. JAMADAR, J.)