

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3266 OF 2023

Akash Sunil Pund and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. Jayendra Khairnar i/b. Ms. Niyti Sontakke, for the Applicants
Smt. Ashwini Takalkar, APP, for the Respondent/State.
Mr. D.M. Lokhande, PSI, Yeola City police station.

CORAM : N. J. JAMADAR, J.
DATE : NOVEMBER 28, 2023

P.C.:

1. Heard the learned counsel for the applicants and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 377 of 2023 registered at Yeola police station for the offences punishable under sections 327, 354, 354-B, 143, 147, 148, 149, 427, 504 and 506 of Indian penal Code, 1860.
3. The first informant lodged a report with the allegations that the dispute arose between the informant party and Sunil Pund, applicant No. 4, and Gorakh Pund, applicant No. 2, in the year 2021 about the sale of an agricultural land. A proceeding came to be instituted in the Niphad Court in which injunction was granted in favour of the informant party. On 17th October, 2023 the applicant and the co-accused allegedly formed an unlawful assembly and in

prosecution of the common object of the unlawful assembly abused and assaulted the first informant's husband Vishal Gaikwad. The applicants and the co-accused also attempted to outrage the modesty of the first informant and committed criminal intimidation.

4. The learned counsel for the applicants submitted that in respect of the very same occurrence, Mangal Pund, of the accused party, had lodged report at C.R. No. 375 of 2023 at about 7.47 pm on 17th October, 2023. As a counter blast, the instant first information report came to be lodged by the first informant, who was not at all present at the scene of the occurrence. The applicants have been falsely roped in with a view to save the first informant's husband who is the accused in first information report No. 375 of 2023.

5. The learned APP invited the attention of the Court to the injury certificates and the statement of the injured.

6. The injury certificates reveal that the husband of the first informant has sustained simple injuries. No injury was noted on the person of the first informant. Evidently, in respect of one and the same occurrence two versions have been reported. The accused party had reported the occurrence first in point of time. Even if the Court proceeds on the premise that it was a case of free fight

between two groups, the question as to whether the applicants had the requisite intention or knowledge to outrage the modesty of the first informant in such a free fight, warrants adjudication at the trial. The applicability of the provisions contained in section 327 of the Penal Code, prima facie appear to be debatable.

7. In the aforesaid view of the matter, I am persuaded to exercise the discretion in favour of the applicants as the applicants have a fixed place of abode and possibility of fleeing away from the justice seems to be remote.

8. In the event of arrest in C.R. No.377 of 2023 registered with 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, each.

9. The applicants shall cooperate with the investigation and attend Yeola City police station, on 4th and 5th December, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

10. The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

11. The applicants shall regularly attend the proceedings before the jurisdictional Court.

12. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)