

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 323/2023

Pawan S/o Suresh Pimpalkar and another V/s State of Maharashtra

WITH

CRIMINAL APPLICATION (ABA) NO. 358/2023

Abhishek s/o Rajesh Warhadpande V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr S.P. Sonwane, counsel for the applicants.

Mr A.M.Kadukar, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/07/2023.

1. Heard.
2. Both the applicants have filed by the applications for grant of anticipatory bail in the event of their arrest in connection with Crime No. 227/2023 registered with Police Station, Wadi District Nagpur for the offences punishable under Sections 324, 427 read with Section 34 of the Indian Penal Code.
3. The applicants are apprehending arrest at the hands of the Police on 29/04/2023, the informant has lodged a report at Police Station, Wadi, Nagpur, on an allegation that on 28/04/2023 at around 10.30 p.m. in

front of the shop of Vasant Vihar Sharma, Dattawadi, Nagpur, when the informant along with his sister were proceeding to their home, the co-accused Pawan who is applicant No. 1 in Criminal Application No. 323/2023 was proceeding by walk on the road and shouted on the informant to drive the vehicle properly. Thereafter, the informant has stopped his car and apologised for the same. The said Pawan talked with him very rudely which resulted into a quarrel between them. Thereafter, the co-accused called his family members and this scuffle took place between them. It is further alleged that the applicant in the criminal Application No. 323/2023 namely Pawan was holding the iron rod and assaulted the father of the informant. It is further alleged that in the said scuffle the stick was also used to assault, the father of the informant who is 49 years old and sustained grievous injuries.

4. Regarding the said incident, cross complaints are filed against each other. The allegations are made against each other that in the said scuffle both the parties have used weapons like sticks and caused injuries to each other. As per the contention of the applicant Pawan, he has also sustained the injuries in the said scuffle and was admitted in the hospital for four days. All the applicants have contended that now the stick is already recovered, the physical custody of

the present applicants is not required and hence they are permitted to grant of anticipatory bail.

5. The said application is strongly opposed by the State on the ground that, Iron Road which was in the hand of the applicant- Pawan is yet to be recovered. Therefore, custodial interrogation is required. The father of the informant has sustained grievous injury. Considering the nature of the injuries, the criminal application of the present applicants deserves to be rejected.

6. Heard both the sides. Perused the recitals of the FIR. Admittedly, the cross complaints are filed against each other. As per the allegation, applicant- Pawan who has filed an application bearing No. 323/2023 was holding Iron Road. In the said scuffle, one stick was also used which is already recovered. However, the iron road is yet to be recovered. The injured is already discharged from the hospital. Considering the same, physical custody of the present applicants is not required. As far as the recovery of the iron road is concerned, directions can be given to the applicant- Pawan to produce the said weapon. By considering the said period as custody for the purpose of Section 27 of the Indian Evidence Act. Accordingly, I proceed to pass the following order:

- a) Both the criminal applications are allowed.
- b) The applicants namely – Pawan Suresh Pimpalkar, Roshni w/o Pawan Pimpalkar and Abhishek s/o Rajesh Warhadpande are released on anticipatory bail in the event of their arrest in connection with Crime No. 227/2023 registered at Police Station Wadi, District Nagpur for the offences punishable under Sections 324, 427 read with Section 34 of the Indian Penal Code, on executing P.R Bond of Rs. 25,000/- each of the applicant with one solvent surety of like amount.
- c) The applicant- Pawan Suresh Pimpalkar shall attend the concerned Police Station as and when required for the investigation purpose.
- d) The applicant -Pawan Suresh Pimpalkar shall produce the iron road before the investigating officer and the said period will be considered as his custody for the purpose of Section 27 of the Indian Evidence act.
- e) The Applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from

disclosing such facts to the Court or any Police Officer.

- f) Both the applications are disposed of.

JUDGE