

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

CRIMINAL APPLICATION (ABA) NO.383 OF 2023

Padma (Swity) w/o Ashish Wankhade

Vs.

State of Maharashtra Through its Police Station Officer, Police Station, Dabki Road,
District Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. R. Tekade, Counsel for applicant.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 30/06/2023

1. The present application is filed for seeking anticipatory bail in the event of her arrest in connection with Crime No.110/2023 registered with Dabki Road Police Station, District Akola, for the offence punishable under Sections 452, 323, 324, 504, 506 read with Section 34 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police as the crime is registered on the basis of the report lodged by one Dipika Funde on an allegation that on 22.04.2023 she had been to the house of her mother to meet her, at that time, there was a quarrel between the small children, the applicant who is residing in the neighbourhood of the mother of the present applicant came there and abused them and also assaulted them by means of iron rod. On the basis of the

report, police have registered the crime against the present applicant.

3. As per the contention of the present applicant that due to the previous enmity, a false FIR is lodged against her and a false report is filed. The custodial interrogation is not required as nothing is to be recovered from her. As far as the allegation is concerned, interrogation can be carried out by the investigating authority as the applicant is ready to attend the Police Station.

4. The said application is strongly opposed by the State on the ground that the iron rod is yet to be recovered from the present applicant and therefore, her custodial interrogation is required. There is a *prima facie* material and hence, the appeal deserves to be rejected.

5. Heard learned Counsel Shri N. R. Tekade for the applicant. He reiterated the contention and submitted that as far as the recovery of the iron rod is concerned, the applicant is ready to produce the same before the Investigating Officer, if she is protected by granting anticipatory bail and the said period can be considered as custody for the purpose of Section of 27 of the Indian Evidence Act. He further submitted that as far as the interrogation is concerned, the applicant is ready

to attend the Police Station and hence, she be protected by granting anticipatory bail.

6. The learned APP strongly opposed the application on the ground that considering the weapon used by the applicant which though is the lethal weapon however, caused injuries to the injured and therefore, custodial interrogation of the applicant is required hence, the application deserves to be rejected.

7. Having heard both sides. On perusal of the investigation report, it reveals that the allegation levelled against the present applicant is that she has used iron rod while assaulting the informant. The medical certificate shows that one Manda Gajanan has received a simple injury and the informant has also received injuries which are in the nature of blunt trauma and abrasion. The injured is already discharged from the hospital. Considering the injuries received are not grievous in nature and as far as the recovery of the article is concerned, the applicant has shown her willingness to produce the same before the Court. Considering the same, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

(i) The application is allowed.

(ii) The applicant Padma (Swity) w/o Ashish Wankhade is released on anticipatory bail in the event of her arrest in respect of Crime No.110/2023 at Dabki Road Police Station, District Akola, registered under Section 324, 452, 323, 504 and 506 read with 34 of the Indian Penal Code, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the Police Station and shall produce the incriminating weapon i.e. iron rod and the period during the production would be considered as her custody for the purpose under Section 27 of the Indian Evidence Act.

(iv) The applicant shall attend the Police Station as and when required for the investigation purpose.

(v) The applicant shall furnish her mobile/phone number, along with her address with address proof.

(vi) The applicant shall not induce, promise, threaten or pressurize any witnesses who are connected with the alleged crime.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)