

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (BA) NO. 1322/2022

1) Rahul s/o Vishnu Narwade
and three others

.. Applicants

versus

The State of Maharashtra
Th: PSO, PS Lonar, Dist.Buldana

.. Non-applicants

.....
Mr. P.S. Wathore, Advocate for the applicants
Mr. A.M.Kadukar, APP for non-applicant
.....

CORAM: ANIL L.PANSARE,J.

DATED : 2nd January, 2023

PC:

By means of this Application, the applicants are seeking release on bail in connection with Crime No.349/2022 for the offences punishable under Sections 395, 324, 323, 294, and 506 of the Indian Penal Code, registered with non-applicant Police Station Lonar, Tq. Lonar, Dist.Buldana. The First Information Report was lodged on 18th October, 2022.

2. Mr. P.S.Wathore, learned Counsel for the applicants has drawn my attention to the contents of the FIR that was lodged by the applicant no.1 herein against the rival group. The said FIR has been lodged vide Crime No.348/2022 for the offences punishable u/ss. 452, 324, 323, 504, 506, 143, 147, 149 of the IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The applicants have lodged the FIR

first in time and to wriggle out from said allegations, the present FIR has been lodged against the applicants.

3. Perusal of the case-papers would support the contention of the applicants to the extent that the applicant no.1 had lodged the FIR against eight persons and that immediately thereafter the member of the rival group i.e. accused no.7 therein has lodged the FIR against the present applicants. The FIR was lodged against as many as eight persons. One of the co-accused has moved the Sessions Court seeking anticipatory bail. The lady members have already been released on anticipatory bail. The applicants, however, have not been released on bail.

4. It appears that the learned Sessions Judge has rejected the application seeking bail mainly on the ground that the offence alleged against the present applicants is punishable u/s 395 of the IPC. The punishment is imprisonment for life or with rigorous imprisonment which may extend to ten years. The contents of the FIR have been examined in the light of the provisions of the IPC as applied against the applicants, particularly Section 395 of the IPC. In this regard, there appears only one line in the statement of the informant in the FIR which states that five out of eight members had entered the house of the informant and started assaulting her and her husband by fists and blows and during such assault, one Smt. Ujwala Narwade (whose bail application was rejected but has not been arrested till date by the Police), has snatched a gold chain worth Rs. 50,000/-. Thus, except for the aforesaid allegation, there is nothing in the FIR or in the statement of witnesses, to attract the ingredients of Section 395 of the IPC. *Prima facie*, it appears that there were altercations between two rival groups

on the count of property and that during the course of altercation, some injuries have been inflicted to the members of both the groups. The specific allegation against the applicant no.1 in the present FIR, is that he had assaulted one of the rival members, namely, Parmeshwar Kayande on his head with the help of a knife. This assault appears to have resulted in applying Section 325 of the IPC which attracts a maximum punishment of three years.

5. Mr. A.M. Kadukar, learned APP could not point out to this Court any statement or evidence that would indicate that the applicants and the co-accused entered the premises of the informant with the motive of commission of dacoity. Nonetheless, it will be a matter of trial. For the purpose of consideration of present application, it appears from the contents of the FIR that during the course of the assault, an isolated incident of snatching the chain by one of the lady members of the present accused persons has occurred. The Investigating Officer thought it proper not to arrest her despite the application having been rejected.

6. The learned APP submits that the investigation is still underway and it would not be proper to release the applicants on bail as they are influential persons and they may tamper the prosecution evidence and may pressurize the rival group.

7. I do not find any merit in the aforesaid submissions. There are allegations and counter allegations made against each other and both the groups have assaulted each other. In any case, the apprehension put forth by the non-applicant can very well be dealt with by putting the applicants to certain stringent conditions. Moreover, nothing is to be

recovered from the applicants.

8. Further, learned Counsel for the applicants submits that the applicants are the permanent residents of Pangradole and are residing there since their birth. There are no criminal antecedents against the applicants. Nothing contrary has been shown by the learned APP.

9. In these circumstances, the applicants have made out a case for grant of bail. Hence the order.

ORDER:

(i) The applicants viz. (1) Rahul Vishnu Narwade, (2) Rameshwar Vishnu Narwade, (3) Sagar Rameshwar Narwade and (4) Vinod Vishnu Narwade shall be released on bail, on executing a PR bond in the sum of Rs.25,000/- (Rupees twenty five thousand) each, in respect of Crime No. 349/2022 for the offences punishable under Sections 395, 324, 323, 294, and 506 of the IPC, registered with non-applicant Police Station Lonar, Tq. Lonar, Dist. Buldana with one solvent surety in the like amount.

(ii) The applicants shall cooperate with the Investigating agency and shall attend the concerned Police Station on every Wednesday between 3.00 and 5.00 p.m. so also as and when directed by the Investigating Officer.

(iii) The applicants shall furnish their address and telephone / mobile number(s) to the Investigating Officer. The applicants shall not change the same without permission of this Court.

(iv) The applicants shall neither tamper with the evidence of the prosecution nor influence the prosecution witnesses in any manner.

The Application is allowed and disposed of in the above terms.

[ANIL L. PANSARE, J.]

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