



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

911 ANTICIPATORY BAIL APPLICATION NO. 1063 OF 2023

1. Bajirao S/o Shahuraj Mudgade,
2. Ratnadeep s/o Shaeb Shinde.

..Applicants

VERSUS

1. The State Of Maharashtra

...Respondent

Advocate for Applicant : Mr. Tope Sambhaji Subhashrao
APP for Respondents-State : Mrs. P. J. Bharad

WITH

ANTICIPATORY BAIL APPLICATION NO. 385 OF 2024

1. Omkar s/o Vyankat Mudgade,
2. Hanmant s/o Shahuraj Mudgade.

..Applicants

VERSUS

1. The State Of Maharashtra,
2. The Superintendent of Police, Latur.

...Respondents

Advocate for Applicant : Mr. Tope Sambhaji Subhashrao
APP for Respondents-State : Mrs. P. J. Bharad

CORAM : R. M. JOSHI, J.

Dated : July 18, 2024

PER COURT :-

1. Heard.
2. Applicants are apprehending arrest in connection with Crime

No.207/2023, registered with AUSA Police Station, Dist Latur for offence punishable under Section 326, 325, 504 r.w. 34 of Indian Penal Code.

3. First informant Yogesh Ganpati Mudgade has alleged the on 11/05/2023 at around 07.15 p.m. he was assaulted in front of a dairy by present applicants and two accused. It is allegation against applicant Bajirao Shahuraj Mudgade that he assaulted him on his forehead with stick whereas applicant Ratnadeep was assaulted him on his back and right leg. Allegations against accused Omkar is that he caused assault with a stone so also other allegations are made against accused Hanmant.

4. Learned Counsel for applicants submits that undisputedly applicant Ratnadeep was present at Pune as he was undergoing training as Agniveer. It is his submission that this shows that the information given to the police is not truthful and there is possibility of false implication. It is his further submission that liberty of the applicant is protected since last one year and that now there is no reason or justification not to allow the application.

5. Learned APP opposed the application by submitting that the

informant had sustained injuries in the said assault which is supported by the medical certificate on record. It is therefore her contention that in such circumstances it is not a fit case for grant anticipatory bail wherein the recovery of weapons is involved. It is also contended that plea of alibi cannot be raised at this stage by the accused.

6. No doubt, it is for the accused to raise a plea of alibi during the trial however, the Court is not precluded to find out as to whether there is substance/ truthfulness in the allegations made by the first informant in the report tot he police. Once it is admitted fact that one of the accused who said to have caused assault with some weapon on the informant was not present at the spot and was present at a distance of 350 kilometers from the spot, prima facie doubt is created about the correctness of the information given to the police. In such circumstances, may be because of some injuries are caused to the informant, it cannot be presumed that the applicants assaulted first informant. Once a civil doubt is created with regard to the veracity of the statement made by the first informant in the first information report, the benefit thereof at this stage shall go to the accused. The applicants are protected by interim order dated 05/07/2023. There is nothing to indicate that they misused their liberty. For the purpose of

recovery of any weapon if any, the applicants can be treated in the custody of police. They are not likely to abscond.

7. Hence, applications are allowed in terms of interim order.

(R. M. JOSHI, J.)

vj gawade/-.