



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 ANTICIPATORY BAIL APPLICATION NO. 638 OF 2024

- 1) Ashok @ Ashruba Sominath Doiphode
- 2) Raju @ Rajendra Sominath Doiphode ...Applicants

Versus

- 1) The State of Maharashtra
- 2) The Superintendent of Police, Beed ...Respondents

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Advocate for Applicants : Mr. Nilesh S. Ghanekar
APP for Respondents: Ms. Rashmi P. Gour
Advocate to assist the A.P.P. : Mr. S.E. Shekade

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CORAM : SHIVKUMAR DIGE, J.
DATED : 21st JUNE, 2024.

PER COURT :-

1. The applicants apprehend arrest in connection with crime No. 40 of 2024 registered with Neknoor Police Station, district Beed, for the offences punishable under sections 143, 147, 148, 149, 341, 365, 326, 327, 323, 504, 506 of I.P.C.
2. Additional affidavit filed by the applicants is taken on record.
3. It is the prosecution's case that the informant Jeevan Dagdu Dhakne, lodged a report stating that the matrimonial dispute was going on between his brother Rajesh Dhakne and sister-in-law Sunita Dhakne and Rajesh Dhakne has filed a suit against Sunita. On

28.2.2024, when the informant was going on in his car towards Beed, at the time, his car was obstructed by the applicants. When the informant stopped the car, the applicants took the informant to their house at Nandur Phata, stating that they want to settle the dispute of his brother Rajesh. When they were in the house of the applicants, at that time, father in law of Rajesh, mother in law of Rajesh and sister-in-law Sunita abused the informant. At that time, applicant No.1 assaulted the informant on his right leg with iron rod and applicant No.2 assaulted the informant on the wrist of his right hand with iron rod. The in-laws of his brother and Sunita torn his clothes. The applicant No.1 threatened the informant asking him to bring Rs.10,00,000/- to settle the matter. Applicant No.2 at the same time came with sword in his hand and he tried to assault the informant with sword. At that time, father-in-law of his brother told the applicant No.2 not to assault with sword otherwise the informant would die. It is alleged that an amount of Rs.30,000/- which was in the cloth pocket of the informant was taken out and pair of other clothes was given to the informant to wear. Thereafter, the applicants and in laws of his brother told to informant that they will take the informant for treatment, as the informant was injured but if he told about the incident to anyone they will kill him by sword. Thereafter, they detained the first informant in their house. On the next day the applicants took the informant in his car and brought him to the school

of the informant. There, they opened the laptop and counter of the informant, took Rs.40,000/- kept in the counter. They took passbook of the informant and then they took him to State Bank of India, Beed. They forcibly obtained the signature of the informant on the withdrawal slip. Thereafter, they went in the bank and withdrew Rs.50,000/-. Thereafter, they left the informant in the Saibaba Hospital. The informant on 6.3.2024 lodged the report about the incident.

4. It is the contention of the learned counsel for the applicants that there is around six days delay in lodging the F.I.R. Learned counsel further submitted that the applicants have been falsely implicated in the present crime. Learned counsel further submitted that when the informant was sitting on the divider of the road in injured condition, at that time, the applicants were going on in their car, when they saw that the informant was in injured condition, on humanitarian ground they took the informant to hospital and got him admitted. Thereafter, as per the say of the informant, they withdrew the amount from his bank account. The allegations made against the applicants are false and frivolous. Learned counsel further submitted that the prosecution has not brought on record the medical evidence dated 28.2.2024 on the day, the incident happened. No custodial interrogation of the applicants is required. Hence he requested to

allow the application.

5. It is the contention of the learned APP assisted by learned counsel Mr. Shekde, that the applicants have forcibly taken the informant to their house. There the applicants and other co-accused assaulted the informant. Thereafter, he was confined for one night in the house of the applicants. On the next day, the informant was admitted in the hospital by the applicants. The applicants took an amount of Rs.40,000/- from his office table counter. It is alleged that the applicants obtained signature on the withdrawal slip forcibly and withdrew an amount of Rs.50,000/- from his bank account. There is CCTV footage of withdrawal of the amount from bank by the applicants. The statement of bank employee is recorded by the police. In the said statement, the bank employee has stated that the applicants had come to withdraw the amount. There is prima facie case against the applicants. Learned A.P.P. further submitted that the applicants assaulted the informant with iron rod. The medical papers show that the nature of injuries to the informant are grievous in nature. The custodial interrogation of the applicants is required. Hence she requested to reject the application.

6. I have heard both the learned counsel. Perused the F.I.R. and the police papers produced on record. In the first information report,

the informant has stated about the incident. He has stated that he was sitting in the car. The applicants obstructed his car, sat in his car and took him to their house and there, the applicants and co-accused assaulted the informant. It is alleged that applicant No.1 assaulted with iron rod on left hand and right leg of the informant whereas applicant No.2 assaulted the informant with iron rod on the wrist of his right hand. The injury certificate corroborates the allegations mentioned in the F.I.R. It is a contention of the learned counsel for the applicants that the applicants found the informant when he was sitting in injured condition on the divider of the road, the applicants took him to the hospital. At prima facie stage, the defence of the applicants cannot be considered, as the informant has categorically stated about what had happened with him. Moreover, the applicants have admitted about withdrawal of the amount from the bank account of the informant. It is the contention of learned counsel for the applicants that the informant had himself signed the said withdrawal slip and on his instructions they withdrew the said amount. This defence can be considered at the time of trial. From the contents of the F.I.R. it appears that the applicants are involved in the crime. The defence taken by the applicants cannot be considered at this stage, as it appears afterthought. The injury certificate of the informant corroborates contents of F.I.R. The custodial interrogation of the applicants is required. Hence, I pass the following order:-

ORDER

The application is rejected.

(SHIVKUMAR DIGE, J.)

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