



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

964 ANTICIPATORY BAIL APPLICATION NO. 896 OF 2024

Tukaram Subhash Gunjal

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. The Superintendent of Police

..RESPONDENTS

...
Advocate for Applicant : Mr. Borulkar Avinash R.
APP for Respondent/State : Ms.V.S. Chaudhari
Advocate for assist to P.P. : Mr.Bolkar Yogesh B.

...
AND

ANTICIPATORY BAIL APPLICATION NO. 849 OF 2024

1. Bappasaheb Appasaheb Gunjal
2. Pandurang Manohar Ingavle

..APPLICANTS

-VERSUS -

1. The State of Maharashtra
2. The Superintendent of Police

..RESPONDENTS

...
Advocate for Applicants : Mr. Borulkar Avinash R.
APP for Respondent/State : Ms.V.S. Chaudhari

...
CORAM : **SHIVKUMAR DIGE, J.**

DATE : 23rd July, 2024.

P.C.:

1. The applicants apprehend arrest in connection with FIR No.0263 of 2024 registered with Pathardi Police Station, for the offences punishable under sections 307, 323, 504 read with 34 of the Indian

Penal Code (For short, "IPC").

2. It is prosecution's case that informant and the applicants are friends. On 1st March, 2024, at around 10:30 p.m., the informant and applicants consumed liquor and went to Kalakendra. After sitting at Kalakendra for some time, the informant told the applicants to go to home as it was late. The applicants abused and manhandled the informant, hence the informant came out of that Kalakendra, it is alleged that the applicants detained the informant in Swift Car and went away. Thereafter, by opening glass of window informant got down from the car and started to go by walk. It is alleged that at that time the applicants came from back side and caught hold the informant and out of three applicants some one assaulted on head of the informant with sharp weapon with an intention to kill him. It is alleged that the applicants assaulted on stomach and left leg of the informant. Due to assault, the informant fell unconscious. Thereafter he was admitted in the hospital.

3. It is contention of the learned counsel for the applicants that the applicants have been falsely implicated in this case. The learned counsel further submitted that the applicants and informant are friends. They drunk liquor together, thereafter they went to Kalakendra. At Kalakendra the informant misbehaved with the employees of Kalakendra, hence Kalakendra employees did not allow the informant to enter in Kalakendra. The informant was sitting outside Kalakendra.

The learned counsel further submitted that the informant was in drunken condition. He might have misbehaved with the villagers and villagers might have assaulted the informant. The learned counsel further submitted that when the applicants were sitting in Kalakendra, employee of Kalakendra informed them that the informant is lying in injured condition on road. After hearing the news, they came out of the Kalakendra and saw the informant in injured condition. Immediately they took the informant in the hospital. Had the applicants intention to kill the informant they would not have taken him in the hospital. The learned counsel further submitted that considering the allegations against the applicants, their custodial interrogation is not required, hence requested to allow the applications.

4. It is contention of the learned APP along with the learned counsel for the first informant that the applicants assaulted the informant with intention to kill him as he was prodding them to go to home. The learned APP further submitted that CCTV footage of Kalakendra shows that the applicants manhandled the informant. The learned APP further submitted that the injuries sustained by the informant are grievous in nature. Considering the allegations against the applicants, their custodial interrogation is required, hence requested to reject the applications.

5. I have heard all the learned counsel. Perused the F.I.R. and police papers produced on record.

6. The allegations against the applicants are that they assaulted the informant with intention to kill him. The incident is happened outside of Kalakendra. In first information report, the informant has not stated specific role of each applicant. During the investigation, the police has recoded the statement of Akash Gaitadak employee of Kalakendra. He has stated that there was quarrel between the informant and applicants and in that quarrel the applicants assaulted the informant with fist and kick blows. He further stated that at the time of incident, there was no shirt on the body of the informant. At around 3:30 a.m., when he and his colleague Akshay Kadam had gone to take tea, they saw informant was lying on road in injured condition. This witness informed the said fact to the applicants, who were sitting in Kalakendra. It is further stated that after hearing the news, the applicants came to incident spot in their Car. They took the informant in their car and got him admitted in the hospital. The witness Vasant Ghule, who is hotel owner near Kalakendra has stated that on 1st March, 2024 at midnight he heard shouts of one person. When he went towards the shout sound, he saw one person without shirt lying on road in injured condition. He called his neighbour Sakharam Kunde. Then they picked up the informant and kept under the tree. It is further stated that he tried to inquire with the informant but he was under influence of liquor and he was not in position to speak. This witness

further stated that after some time, one white colour car came there and they took injured in their car and went away. From the statements of these witnesses, it appears that at the time of incident, the applicants were present in the Kalakendra and they were not present at the incident spot as alleged by the informant. Considering these aspects, the custodial interrogation of the applicants is not required and I pass the following order :-

ORDER

- (i) The applications are allowed.
- (ii) In the event of arrest of the applicants in connection with FIR No.0263 of 2024 registered with Pathardi Police Station, for the offences punishable under sections 307, 323, 504 read with 34 of the Indian Penal Code, the applicants be released on executing personal bond in the sum of Rs.15,000/- each with one surety of the like amount by each of them, on the following conditions :-
 - (a) the applicants shall attend the concerned police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]

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