



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

918 ANTICIPATORY BAIL APPLICATION NO. 985 OF 2024

1. Ramdas Vitthal Pawar
2. Avinash Suresh Bavane
3. Nikhil Kiran Dharu
4. Balu Vitthal Pawar

..APPLICANTS

VERSUS

The State of Maharashtra
and another.

..RESPONDENTS

...
Advocate for Applicants : Mr. Gandhi Amol Subhash
APP for Respondent/State : Ms.M.L. Sangit

...
CORAM : **SHIVKUMAR DIGE, J.**
DATE : 4th September, 2024.

P.C.:

1. Heard the learned counsel for the applicants and the learned APP.
2. After hearing for some time, when this Court expressed disinclination to allow the application of applicant no.2-Avinash Suresh Bavane and applicant no.3-Nikhil Kiran Dharu, the learned counsel for the applicants, on instructions, seeks leave to withdraw their application.
3. Considering his request, the application is dismissed as withdrawn to the extent of applicant nos.2 and 3.
4. The applicant nos.1 and 4 apprehend arrest in connection with

FIR No.54 of 2024 registered at Peth Police Station, Beed, for the offences punishable under sections 143, 146, 147, 148, 149, 323, 324, 327, 336, 427, 504 and 506 of the Indian Penal Code (For short, "IPC") and sections 4/25 of the Arms Act.

5. It is prosecution's case that on 14th March, 2024 around 7:30 to 8:00 a.m., the applicants and co-accused came in front of house of the informant and asked the informant to remove the tin-shed as the said land belongs to them. It is alleged that the applicants and co-accused tried to remove the said tin-shed, hence the informant's mother has shouted. Hearing shouts the informant and his elder brother Nagesh, niece Priyanka and cousin brother Sagar came out of the house. When informant's brother Nagesh was telling to the applicants and co-accused not to remove the tin-shed, at that time co-accused Babu assaulted the brother of the informant with sword but niece Priyanka came in between them, therefore, she got injuries of sword on her forehead. It is alleged that at that time, co-accused Ishwar brought wooden rod and iron rod and gave blow of it to all co-accused. It is alleged that the applicants assaulted the informant with stones due to which the injury is caused to the left ear of the informant. It is alleged that when the informant was lying on the ground, at that time, applicant no.4 – Balu gave blow of iron rod on his left leg. It is alleged that when informant's mother and cousin came to rescue him, at that time, co-accused Bablu and Nikhil assaulted them with wooden rod on their

head and other co-accused assaulted with iron rod. It is alleged that co-accused snatched the *Mangalsutra* of Priyanka from her neck.

6. It is contention of the learned counsel for the applicants that the applicants have been falsely implicated in this case. Though the allegations against the applicants are that they assaulted the informant with stones and iron rod, the informant has suffered simple injuries. Considering the allegations against the applicants, the custodial interrogation of the applicants is not required and requested to allow the application.

7. It is contention of the learned APP that the applicants were part of the group who assaulted the informant and his family members. They had formed unlawful assembly. Being the members of the unlawful assembly, the applicants are not entitled for protection as they have assaulted the informant with stones and iron rod. Considering the allegations against the applicants, the custodial interrogation of the applicants is required and requested to reject the application. The learned APP relied on ***State of U.P. Vs. Kishanpal and others (2009 AIR (SC) (Supp) 1238.***

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

9. The allegations against the applicants are that applicant no.1 assaulted the informant with stones whereas applicant no.4 assaulted the informant with iron rod on his leg. Injury certificate of the informant

shows that he has suffered simple injuries. The injury certificate shows that there is no injury to the leg of the informant. I have gone through the case law cited by the learned APP. The facts of the cited case and facts of the case in hand are different, hence not applicable to the present case. Though the applicants were members of the unlawful assembly, considering the allegations against the applicants, their custodial interrogation is not required and I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant nos.1 and 4 in connection with FIR No.54 of 2024 registered at Peth Police Station, Beed, for the offences punishable under sections 143, 146, 147, 148, 149, 323, 324, 327, 336, 427, 504 and 506 of the Indian Penal Code and sections 4/25 of the Arms Act, they be released on executing personal bond in the sum of Rs.25,000/- with one surety of the like amount, on the following conditions :-
 - (a) the applicant nos.1 and 4 shall attend the concerned police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]