



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1306 OF 2024

1. Haridas Limbaji Ghobale
2. Swargesh Vishnu Ghobale

VERSUS

The State Of Maharashtra And Another

- Mr. E. P. Sawant, Advocate for the Applicants
- Mr. C. V. Bhadane, APP for the Respondent/State

CORAM : R.M. JOSHI, J

DATE : OCTOBER 15, 2024

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 361/2024 registered with Gangakhed Police Station, Dist. Parbhani for the offences punishable under Sections 307, 323, 324, 143, 144, 147, 148, 149, 504, 506 of the Indian Penal Code and Sections 4, 25 of the Arms Act and Section 135 of the Maharashtra Police Act.

2. First Informant Lal Mohd. Syed lodged report on 06.06.2024 in respect of the incident occurred on 02.45 pm. It is his contention that he received a phone call from Applicant No. 1. Informant told him to pay Rs. 3.5 lakhs. On which, Applicant No. 1 had called

him at Dilkash Square. When he along with others waiting at Dilkash Square, at around 03.00 pm Applicant No. 1 came along with 6-7 persons came on motorcycle. Applicant No. 1 was holding sword in his hands whereas other accused persons were holding other weapons in their hands. It is his further allegation that Applicant No. 1 and other started abusing and assaulting him. There is allegation against Applicant No. 1 that he caused assault with the sword on the head of the informant. Other co-accused Limba Ghobale assaulted on his legs. On the basis of these allegations, offence came to be registered against Applicants and co-accused.

3. Learned Counsel for the Applicants submit that in so far as Applicant No. 2 is concerned, there is no overt-act alleged to have been committed by him and as such, his liberty deserves to be protected. As far as Applicant No. 1 is concerned, it is his submission that as recorded by this Court while granting anticipatory bail to the co-accused that there are simple injuries caused to the informant and, therefore, this is a fit case for grant of anticipatory bail. In response to the

submissions made by the learned APP with regard to the criminal history of the Applicant No. 1, it is pointed out on the basis of the judgment of the Division Bench of this Court in Criminal Writ Petition No. 994/2019 that in almost all offences Applicant No. 1 has been acquitted. It is his submission that having regard to these facts, there is no substance in the opposition of the prosecution to grant of anticipatory bail to Applicant No. 1.

4. Learned APP opposed the application of both Applicants on the ground that the offence is under Section 307 IPC. He drew attention of the Court to the various orders passed by the Trial Court against Applicant No. 1 which according to him indicate that numbers of orders are required to pass in various proceedings for procuring presence of the Applicant No. 1 before Courts. Prosecution claims that there are as many as 20 offences registered against Applicant No. 1 and that he is likely to abscond.

5. In so far as Applicant No. 2 is concerned, there is no allegation against him that he has

committed any overt-act in the incident in question. In so far as Applicant No. 1 is concerned, there is allegation in the FIR that he went to the spot with sword and has caused assault on the head of the injured. Offence charged against Applicant No. 1 is punishable under Section 307 IPC and not under Section 326 IPC. It is, therefore, immaterial as to whether simple or grievous injury is caused. On the face of it, it is pertinent to note that the Applicant No. 1 came to the spot with sword and caused assault on the head of the injured, which is corroborated from the injury certificate. Though an affidavit is filed by the Applicant No. 1 contending that it was a spontaneous incident, this Court is unable to accept the same for the reason that in spontaneous incident question of people carrying weapons does not arise. *Prima facie* role of the Applicant No. 1 can be easily distinguishable from the role attributed against other accused.

6. Having regard to specific allegation against present Applicant No. 1 that he is carrying sword and caused assault on the injured, *prima facie* offence

under Section 307 IPC is made out. There are not only offences registered against Applicant No. 1, but orders passed by the various Courts indicate that the apprehension of the prosecution that he will flee from justice is not misplaced.

7. In the result, application is partly allowed. Application to the extent of Applicant No. 1 is dismissed. Application to the extent of Applicant No. 2 is allowed by confirming interim order dated 31.07.2024.

(R.M. JOSHI, J.)