



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1666 OF 2023

1. Shahaji Bhanudas Tanpure
2. Avinash Shahaji Tanure
3. Devidas Bhanudas Tanpure
4. Sominath Devidas Tanpure ... Applicants

VERSUS

The State of Maharashtra
and another .. Respondents

.....
Mr. Narendra B. Patekar, Advocate for the Applicants
Mr. S.V. Hange, APP for Respondents – State
Mr. R.R. Karpe, Advocate for Informant
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th FEBRUARY, 2024

ORDER :

1. Applicants apprehend arrest in connection with Crime No. 295 of 2023 registered with Mirajgaon Police Station, District-Ahmednagar for the offence punishable under sections 306, 323, 504, 506 read with section 34 of the Indian Penal Code.

2. FIR is lodged by Mangal Pradip Randive alleging that since 10 years they have dispute about the house property with accused persons including applicants. On 29.08.2023, when her husband Pradip Babasaheb Randive went to Maruti

temple, Shahaji Bhanudas Tanpure, Shivaji Shahaji Tanpure, Avinash Shahaji Tanpure, Devidas Bhanudas Tanpure, Sominath Devidas Tanpure, Vishal Devidas Tanpure, Asha Shivaji Tanpure and Jayashri Devidas Tanpure, all resident of Gondardi, Taluka-Karjat, District-Ahmednagar came in front of the temple and told him not to sit in the temple, he is not entitled to sit in the temple and he will not be allowed to reside in the village and abused him. Thereafter, on 30.08.2023, at about 8.30 a.m., Shivaji Shahaji Tanpure and Devidas Bhanudas Tanpure came in front of their house and assaulted her husband Pradip by fists and kick blows and dragged him up to the road. When informant tried to intervene they both also dragged her up to road. Due to the said assault, informant and her husband suffered injuries on their knees. Shivaji Tanpure, Avinash Tanpure, Sominath Tanpure and Vishal Tanpure also assaulted her husband Pradip by fists and kick blows and abused him. Asha Tanpure and Jayashri Tanpure gave him filthy abuses and threatened them that if they do not leave the village, their family will be killed. Due to that, her husband was in frightened condition. He was afraid of going out of the house or in the village. He was not having food and saying that he is defamed in the village. On 04.09.2023 at about 10.00 a.m. her husband told her that he

is going to the field. At about 3.00 p.m. when informant went to see her husband, she saw him in hanging position in the house.

3. Heard learned advocate for applicant, learned APP for respondent – State and learned advocate for informant. Perused the investigation papers.

4. Learned advocate for applicants submits that due to dispute of house property, applicants are falsely implicated in the present crime. On 10.01.2023, 43 villagers from village Gondardi including applicants gave complaint to Police Station Mirajgaon that deceased Pradip under the influence of liquor used to address ladies in the village in indecent language. When the villagers tried to give him understanding, he threatened that he will consume poison or hang himself and implicate them. They therefore requested that appropriate action may be taken against Pradip. Hence, applicants are implicated in this false offence.

5. Learned APP, on the other hand, opposed the application by placing reliance on papers of investigation. He submits that similar offences are registered against applicants

and applicants are involved in serious offence, and therefore, they are not entitled for discretionary relief of anticipatory bail.

6. Admittedly, there is long standing dispute between applicants and informant's family in respect of house property. On going through the FIR, it is noticed that ingredients of section 107 of the Indian Penal Code are missing. Therefore, *prima facie*, section 306 of the Indian Penal Code is not attracted in the present case.

7. There appears substance in the contention of applicants that on 10.01.2023, 43 villagers have complained about indecent behaviour of deceased Pradip to the Police Inspector, Mirajgaon Police Station. Though learned advocate for informant submitted that out of 43 villagers, surname of 27 villagers is Tanpure, that would not make any difference at this stage. Fact remains that prior to the FIR villagers complained to police about behaviour of deceased and threats extended by him.

8. Offence has taken place on 29.08.2023 and the FIR is belatedly lodged on 04.09.2023. This also supports the contention of applicants that after thought they are implicated in the present crime.

9. Applicants were granted interim protection and they have co-operated in the investigation, nothing is to be recovered from them. Investigation appears to be almost complete. Hence, pre-trial custodial detention of applicants is not warranted in the facts of the present case.

10. Application is therefore allowed by confirming interim protection granted to applicants by order dated 10.10.2023.

[NITIN B. SURYAWANSHI]
JUDGE