



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1796 OF 2023

Dildar Iliyas Khan And Others

....Applicants

VERSUS

The State Of Maharashtra

.....Respondent

.....

Mr. T.M. Tandale, Advocate for applicants.

Mr. S.B. Jadhav, APP for respondent-State.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th FEBRUARY, 2024

ORDER :

1. Applicants apprehend arrest in C.R. No. 455 of 2023, registered with Jamkhed Police Station, Dist. Ahmednagar, for offences punishable under sections 307, 395, 323, 504, 506(2) r/w. 34 of the Indian Penal Code and under section 25(3) of Arms Act.

2. FIR is lodged by Shahebaz Sayyed alleging that on 30.03.2023, at about 10.30 pm, applicants No. 1 and 2 had driven their scooter towards informant. When informant asked as to whether they want to kill him, both applicants started abusing informant. At that time, accused Ansar and Kamil came there and started beating informant by iron rod. Ansar took out pistol

Bhagyawant Punde

from dikki of scooty and gave it to applicant No. 2 who kept pistol on the head of informant. Ansar snatched informant's ring and Rs. 8750/- from his pocket. All the accused persons assaulted him.

3. Heard learned advocate for applicant and learned APP for respondent-State. Perused the investigation papers.

4. There appears previous dispute between informant and accused persons, for which from time time FIRs' are lodged by them against each other. It is the case of applicants that father of informant has constructed garden in front of their house, which is being used by miscreants and therefore applicants' family is facing hardships. trouble. Applicant No. 1 from time to time complained to the authorities about said illegal construction of garden. On that ground there is dispute between informant and applicants.

5. On the date of incident, according to applicants they were assaulted by informant and nine others, hence applicant No. 1 has lodged a private complaint bearing Criminal Case No. 230/2023 alleging commission of offence under sections 320, 324, 326, 395, 504, 506 r/w. 34 of IPC. Learned Magistrate in

that case has passed an order by giving direction under section 156(3) of Cr.P.C. to register FIR and investigate the matter. Present FIR is also registered as per the direction issued by learned Magistrate at the instance of informant.

6. From the papers of investigation, it appears that applicants No. 1 and 2 have also suffered injuries in the incident. The version of informant, *prima facie*, appears to be over exaggerated. Considering the previous dispute and cross FIRs' lodged by both the parties against each other, *prima facie*, false implication of applicants cannot be ruled out at this stage. In that view of the matter, pre-trial custodial detention of applicants is not necessary.

7. In the result, application is allowed by confirming interim protection granted on 30.10.2023.

8. Till filing of charge sheet, applicants shall attend the concerned police station as and when called by investigating officer and shall co-operate in the investigation. Applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]