



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

942 ANTICIPATORY BAIL APPLICATION NO. 1535 OF 2024 WITH
CRIMINAL APPLICATION NO. 4244 OF 2024
IN ABA/1535/2024

1. Sunil Indrajit Bhojane
 2. Sharad s/o Bharat Bhojane
 3. Bharat s/o Kadaji Bhojane
 4. Vilas s/o Dilip Bhojane
 5. Dnyaneshwar s/o Piraji Bhojane
 6. Datta s/o Satish Vaidya
 7. Sakharam s/o Kadaji Bhojane
 8. Vijaykamal s/o Kishor Bajaj
 9. Indrajit Kadaji Bhojane
 10. Satish s/o Umaji Vaidya
 11. Rajkumar s/o Dilip Bhojane
-Applicants

VERSUS

The State of Maharashtra & another

.....Respondents

.....

Mr. E. S. Potdar, Advocate for Applicants.

Mr. S. B. Narwade, APP for the State.

Mr. A. S. Kakade, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 18th OCTOBER, 2024.

PER COURT :

1. At the outset, Criminal Application No. 4244/2024 seeking leave to assist learned APP is allowed.

2. Learned counsel for Applicants submits that Applicant No. 1 Sunil s/o Indrajit Bhojane, Applicant No. 2 Sharad s/o Bharat Bhojane and Applicant No. 5 Dnyaneshwar s/o Piraji Vaidya are already arrested and enlarged on regular bail. Application, therefore, has become infructuous to their extent.

3. In view of above, application qua Applicant Nos. 1, 2 and 5 is dismissed as infructuous.

4. Applicants apprehend arrest in connection with Crime No. 178/2024, registered with Tirthapuri Police Station, Dist. Jalna, for the offences punishable under Section 118(1), 115(2), 352, 351(2), 351(3), 189(1), 189(2), 189(4), 191(2), 191(3), 190 and 118(2) of Bhartiya Nyaya Sanhita, 2023.

5. First Information Report indicates that an incident had occurred on 25.07.2024 at 4.00 pm near Gram Panchayat Kotha. It is stated in the report that a dispute occurred in respect of auction of

Gat No. 39. Over the said issue, the incident of abusing and assault took place. The first informant has attributed role of the present accused so also omnibus allegations are also made against some of them.

6. Learned counsel for Applicants submits that in respect of the same incident, counter reports are filed. It is his submission that in such circumstances, possibility of false/over implication is not ruled out. He relies upon order of this Court in ABA No. 253/2020 dated 21.07.2020.

7. Learned APP and learned counsel for informant opposed the application considering the seriousness of the crime as well as relying upon the injury certificates of informant and witnesses.

8. Perusal of the record indicates that there is no allegation against Applicant No. 8 Vijaykamal s/o Kishor Bajaj, Applicant No. 9 Indrajit Kadaji Bhojane, Applicant No. 10 Satish s/o Umaji Vaidya nd Applicant No. 11 Rajkumar s/o Dilip Bhojane of using any weapon in the alleged incident of assault. Though there is allegation made with regard to use of stone, there is no question of any recovery of the

same now at their instance. Hence, these Applicants are entitled for pre-arrest bail.

9. So far as Applicant No. 6 Datta s/o Satish Vaidya and Applicant No. 7 Sakharam s/o Kadaji Bhojane are concerned, there is allegation that they caused assault on witness Meghraj with fists. There is however no injury certificate of Meghraj. Not only prosecution is unable to place any such evidence on record showing causing of injury to him but the informant is also not in a position to substantiate the said contention. Hence, these Applicants are also entitled for anticipatory bail.

10. As far as Applicant No. 3 Bharat s/o Kadaji Bhojane is concerned, he is said to be aged about 83 years. Allegation against him is that he used stick to cause assault on the legs of the informant. Having regard to the nature of assault, his liberty also deserves to be protected.

11. As far as Applicant No. 4 Vilas s/o Dilip Bhojane is concerned, when this Court has shown disinclination to grant any relief to this Application, learned counsel for this Application, on

instructions, seeks leave to withdraw the application to the extent of Applicant No. 4. Application to the extent of Applicant No. 4 is dismissed as withdrawn.

12. In view of above discussion, following order is passed :-

ORDER

(i) Application qua Application Nos. 1, 2, 5 is dismissed as infructuous.

(ii) Application qua Applicant No. 4 is dismissed as withdrawn.

(iii) Application qua Applicant Nos. 3 and 10 is allowed in terms of the interim order.

(iv) Application qua Applicant Nos. 6, 7, 8, 9 and 11 is allowed.

(v) In the event of arrest of applicants 6, 7, 8, 9 and 11, in connection with Crime No. 178/2024, registered with Tirthapuri Police Station, Dist. Jalna, for the offences punishable under Sections 118(1), 115(2), 352, 351(2), 351(3), 189(1), 189(2), 189(4), 191(2), 191(3), 190 and 118(2) of Bhartiya Nyaya Sanhita, 2023, they be

released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one surety each in the like amount.

(vi) They shall attend the concerned police station once in a week.

(vii) They shall not contact the witnesses directly or indirectly.

(viii) They shall not interfere with the evidence in any manner whatsoever.

(ix) They are further directed to cooperate the investigating agency for further investigation.

(x) Learned APP to communicate this order to the concerned Investigating Officer.

(R. M. JOSHI)
Judge