

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.237 OF 2024

1. Shakuntala Gopal Shinde, &
2. Amruta Shivaji Raut. Applicants
Versus
The State of Maharashtra Respondent

Mr. Vaibhav Ugle, Advocate a/w. Vikas Somawanshi, Shubham Vasekar i/b. Atul Patil for the Applicants.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th JANUARY, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.1038/2023 registered at Wakad Police Station, Pimpri Chinchwad under sections 326, 324, 323, 143, 147, 148, 149, 506 of IPC, Sections 4 & 25 of the Arms act and Sections 37 & 135 of the Maharashtra Police Act. Subsequently, Sections 307 and 364 of IPC are also added.

2. Heard Mr. Vaibhav Ugle, learned counsel for the Applicants and Ms. Pallavi Dabholkar, learned APP for the Respondent-State.

3. The Applicant No.1 is the mother-in-law of the informant and the Applicant No.2 is the daughter of the Applicant No.1 i.e. she is informant's sister-in-law.

4. The FIR is lodged by one Yogesh. He has stated that he had got married with his wife Sonali in the year 2015. They have a daughter from their marriage. There used to be frequent quarrels between the couple. His wife had gone to reside at her parents' house. They are residing at Loni Kalbhor. There are litigations pending between the husband and the wife. The informant was paying maintenance to his wife. But, looking at the welfare of the daughter they started residing together from 7.5.2023 but even thereafter there used to be quarrels. The Applicant and her family members had threatened the informant.

5. It is the case of the informant that his wife used to give him some objectionable articles through his food. It is his case that she was performing some black-magic. The informant recorded some conversations between his wife and the person who was instigating her and giving her those

articles. The informant had told the Applicants and their family to tell his wife to stop these things. On 20.10.2023 in the midnight the Applicant No.1, her husband, her sons, the Applicant No.2 and others suddenly came to the informant's house. There was some discussion in the presence of the landlord Mehtre who left after some time. Suddenly the Applicant's family started assaulting the informant. The Applicant No.1's husband assaulted the informant with a wooden stick. He also assaulted the informant with fists. The Applicant No.1's son Akshay gave a blow with sickle on the informant's head causing a bleeding injury. After that the Applicant No.1 threw chilly powder in the informant's eyes. The others continued beating him. The informant struggled with them. He shouted. Therefore, the other residents of the colony gathered there. Then he was taken to the hospital by the Applicant's family itself. He was taken to a hospital at Thergaon. There this injury was sutured. He was admitted to YCM Hospital. Then this FIR is lodged.

6. Learned counsel for the Applicants submitted that the Applicant No.1's son Akshay who is attributed a serious role of causing assault with sickle, has committed suicide. Therefore, on humanitarian grounds, the Applicant No.1's case be considered sympathetically. He submitted that in any case she has not caused grievous hurt. He further submitted that the Applicant No.2 has not taken part in the beating. There are no serious allegations against her.

7. Learned APP opposed these submissions particularly for grant of relief to the Applicant No.1. She produced the investigation papers before me.

8. I have considered these submissions. I have also perused the investigation papers produced before me. The investigation papers include a supplementary statement of the informant and the statements of the eye witnesses i.e. the landlord Dagadu Mehtre, his wife and other neighbours. They have corroborated the statement of the first informant. The witness Nilesh Sawant, who saw that the informant was being assaulted, also saw that the informant's wife was trying to

snatch his mobile phone. Therefore, all these statements support the informant's case. The medical certificate shows that the informant has suffered one serious wound over the parietal region. It was CLW of the size 8 cm x 1 cm x 1 cm. There were abrasions over the back, neck and cheek. There was also redness of the left eye. There was subconjunctival hemorrhage in the left eye. Thus, the medical certificate corroborates the informant's version.

9. As far as the Applicant No.2 is concerned, no role is attributed to her. The family had gone for discussion and then the incident escalated into this assault. However, the Applicant No.1 is given a specific role. At the first instance her son Akshay gave a severe blow with sickle on the informant's head. After that the Applicant No.1 threw chilly powder in his eyes. Thus, the Applicant No.1 has taken active part in the assault, inspite of the informant's suffering a serious head injury. Her role is clearly established through the statement of the informant. In this view of the matter the Applicant No.1 cannot be protected under Section 438 of Cr.P.C. Only the

Applicant No.2 can be protected considering her non-participation in the incident and considering the vague allegations against her.

10. Hence, the following order :

ORDER

- (i) The Application for the Applicant No.1 Shakuntala Shinde is dismissed.
- (ii) In the event of her arrest in connection with C.R.No.1038/2023 registered at Wakad Police Station, Pimpri Chinchwad, the Applicant No.2 Amruta Raut is directed to be released on bail on her furnishing a PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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