

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

ANTICIPATORY BAIL APPLICATION NO.214 OF 2024

Nilesh Vitthal Bhare & Ors.

.... Applicants

versus

State of Maharashtra

.... Respondent

.....

- Mr. Niranjan Mundargi a/w Harshad Sathe, Advocate for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.
- Ms. Sayali Gutte a/w Shivani Kamble, Advocate for original complainant.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st FEBRUARY, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.232/2023, dated 12/07/2023, registered with Shahapur Police Station, Thane Rural, under sections 324, 323, 504, 506, 143, 147, 149, 427 of the Indian Penal Code. Subsequently, section 326 of the Indian Penal Code is added. At the outset, learned counsel for the Applicant states that he is not pressing this application filed by Applicant Nos.1,

2, 3 and 4. He is pressing this application only for Applicant No.5 Nilesh Lahu Dhanake. Therefore, the application for these four Applicants is dismissed as not pressed. I have considered this application only from the point of view of the Applicant No.5.

2. Heard Mr. Niranjana Mundargi, learned counsel for the Applicant, Ms. Sayali Gutte, learned counsel for the complainant and Ms. Mahalakshmi Ganapathy, learned APP for the State.
3. The FIR is lodged by one Vinayak Sapale. He has stated that he was a Director of APMC, Shahapur. On 18/05/2023 there was an election for two posts. The main accused Jagdish Pawar was contesting the election for Vice Chairman. The informant remained neutral. He did not support Jagdish. The FIR mentions that Jagdish was not elected and therefore he was angry with the informant. On 12/07/2023 at about 10.00 a.m. the main accused Jagdish came in a four wheeler with 5 to 6 unknown persons. They removed hockey sticks and iron rod and

mounted assault on the first informant. They damaged his car as well. After that they went away in the car.

4. Learned counsel for the Applicants submitted that the injuries suffered by the first informant were simple in nature and therefore offence u/s 324 of IPC was registered. He submitted that the Applicant No.5 is not named in the FIR. There is record to show that at that very time, the Applicant No.5 was working in his factory at Ambernath. Therefore the Applicant No.5 has a strong alibi. It would be unfair if he is arrested in this case.

5. Learned APP produced the investigation papers before me. The medical certificate of the first informant shows that on 12/07/2023 all the injuries were described as simple injuries. There were six such injuries. However, subsequently, the sub-district hospital issued a fresh certificate wherein following injuries were mentioned:

- (i) Multiple contused wound all over abdomen.
 - (ii) Contusion all over chest. There was fracture of 10th rib.
 - (iii) Multiple contusions and abrasions on the back shoulder causing fracture of scapula.
6. Then, there were three more injuries on the legs, thigh and head. Those were simple injuries. However, the fracture of the rib and the scapula were described as grievous injury. Therefore, subsequently section 326 of IPC is added. However, it is important to see as to whether the Applicant's name was mentioned.
7. Learned APP produced the statement of the first informant recorded u/s 164 of Cr.PC. in which he has named all the accused including the present Applicant No.5. In his supplementary statement when the informant saw the CCTV footage, he had named the present Applicant as well. This is not in consonance with his statement in the FIR that he was assaulted by the 5 to 6 unknown persons. Therefore, at this stage, the Applicant No.5 can be given some benefit as far as the

informant's supplementary statement is concerned. More importantly two more witnesses Kiran Gorule and Madhukar Vekhande, had seen the CCTV footage wherein the incident was captured. Both of them have named the other accused, but they have not named the present Applicant No.5.

8. Thus, the two independent witnesses who were shown the CCTV footage and who had identified the other Applicants, have not named the present Applicant. They have not identified him and no role is ascribed to the Applicant No.5 at this stage. He can be protected u/s 438 of Cr.P.C.

9. Hence, the following order :

ORDER

- (i) The application on behalf of the Applicant Nos.1 to 4 is dismissed as not pressed.
- (ii) In the event of his arrest in connection with C.R.No.232/2023, dated 12/07/2023, registered

with Shahapur Police Station, Thane Rural, the Applicant No.5 Nilesh Lahu Dhanake is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)