

Nivrutti Ananda Mahale and another	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

Mr. Sanjeev B. Deore a/w. Ms. Suchita J. Pawar and Mr. Jitendra K. Pagare
for applicants.

Mr. Babu Vitthalrao Holambe-Patil, APP for respondent-State.

Mr. Ketan Shivaji Kapse, Police Constable, Yeola City Police Station, District Nashik Rural.

CORAM : MANISH PITALE, J.

DATE : 24th JULY, 2024

P.C. :

Heard learned counsel for the applicants and the learned APP for the respondent-State.

2. The applicants have approached this Court apprehending arrest in connection with FIR No.0151 of 2024 dated 19.04.2024 registered at Police Station Yeola City, District Nashik Rural for offences under Sections 307, 341, 143, 147, 148, 149, 324, 323, 504 and 506 of the Indian Penal Code, 1860 (IPC) and Sections 4 and 25 of the Arms Act, 1959.

3. As per the informant, the applicants before this Court alongwith about six other persons, assaulted the informant by way of weapons, including chopper and *koyta*. In that process, the informant suffered injuries, including a head injury. On this basis, the aforesaid FIR came to be registered.

4. The learned counsel for the applicants submits that this is a case of false implication, in the backdrop of the fact that the informant is one of the accused persons in FIR registered at the behest of applicant No.1 bearing FIR No.282 of 2023, wherein offences have been registered against the informant and other accused persons under Sections 420, 467, 468, 471, 387, 506 and 120-B read with Section 34 of the IPC. It is submitted that the informant in the said case, prepared forged documents in order to dispose of a property belonging to applicant No.1. It is further submitted that description of the incident shows that the informant was brutally assaulted by a number of persons, but there is no authentic injury report from Government hospital to corroborate the allegations made by the informant. It is submitted that the investigating officer is relying upon a medicolegal certificate issued by a private hospital, which ought not to be considered by this Court. It is further submitted that the applicant has material, including CCTV footage, to show that he could not have been present at the place of the incident as alleged by the informant.

5. On the other hand, the learned APP has tendered the medicolegal certificate issued by a private hospital, which records the nature of injuries suffered by the first informant. It is submitted that in the light of the specific allegation made against the applicants, this Court may not show any indulgence to the applicants.

6. This Court has considered the material on record. The statement of the informant leading to registration of FIR specifically names the two applicants before this Court. The informant has specifically made allegations about the overt acts of both the applicants and the nature of weapons used in the assault. This Court has perused the medicolegal certificate dated 19.04.2024 issued at 04:30 p.m., which records a deep lacerated wound

suffered by the informant by means of a heavy sharp object. Copy of the discharge certificate also shows history of assault and the nature of injuries suffered by the informant.

7. At this stage, this Court is not inclined to disbelieve the said documents, particularly because the statement of the informant leading to registration of FIR does attribute specific acts against the applicants.

8. The argument pertaining to alibi and CCTV footage cannot be taken into consideration at this stage as it is the defence of the applicants. As regards false implication and the case of counterblast sought to be raised on behalf of the applicants, copy of FIR No.282 of 2023 is not placed on record. But, a perusal of the say of investigating officer concerning the said FIR before the competent Magistrate merely shows that the informant is arrested as an accused in the said FIR in which applicant No.1 is the informant. The aforesaid FIR pertains to the year 2023, while the subject FIR in the present case was registered on 19.04.2024. The theory of counterblast can perhaps be considered at a later stage, but at this stage, this Court is not inclined to show indulgence to the applicants only on that ground, for the reason that specific overt acts have been alleged against the applicants concerning assault on the informant by way of chopper and *koyta* (sickle).

9. In view of the above, the application is dismissed.

10. Needless to say, the observations made hereinabove are limited to considering the prayer of the applicants for grant of anticipatory bail. The competent Court shall remain uninfluenced by such observations.

(MANISH PITALE, J)