

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

ANTICIPATORY BAIL APPLICATION NO.2076 OF 2024

Mr. Jayram Baburao Kalamkar & Anr. ..Applicants
Versus
The State of Maharashtra ..Respondent

Mr. Sandeep Katke a/w Shantanu Katkar, for the Applicants.
Mr. Tanveer Khan, APP for the Respondent/State.
Mr. Tapan Thatte a/w Vivek Arote, for the Intervenor.
Mr. Sachin Karande, API, Chaturshrungi Police Station – present.

CORAM : MANISH PITALE, J.

DATE : 14th AUGUST, 2024

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1. Heard learned counsel for the Applicants and learned APP for the Respondent/State, as also learned counsel having instructions to appear for the first informant.
2. The Applicants are apprehending arrest in connection with FIR No.0575 of 2024 dated 30.06.2024 registered with Chaturshrungi Police Station, District Pune for the offences under Sections 326, 323, 504, 506 r/w 34 of IPC and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.
3. The informant in the present case has alleged that when concerned persons from the Electricity Authority were called to the building, where the informant resides, as the electricity supply was

disrupted, the Applicants appeared on the scene and quarreled with the informant on the ground as to on what basis the informant called the persons from the Electricity Authority.

4. The allegation is that the Applicant No.1 abused the informant and physically assaulted, while the Applicant No.2 used the wooden handle of a Spade to cause injuries to the informant, including fracture to one of the fingers of the informant.

5. Learned counsel for the Applicants submits that the informant is the tenant of the Applicants and they are having running disputes. A specific reference is made to contents of paragraph 10 of the Application, wherein details of the complaint filed before the jurisdictional Magistrate have been given, pertaining to a grievance of the Applicants against the informant on the ground of cheating, forgery etc. It is submitted that therefore, the informant has falsely implicated the Applicants. It is submitted that the Applicants are ready to co-operate with the investigation. Therefore, this Court may allow this Application.

6. On the other hand, learned APP submits that in the present case, the allegations made against the Applicants are specific, where names of Applicants are specifically mentioned and the injury certificate co-relates with the allegations made by the informant. One of the injuries is a grievous injury showing fracture to one of the fingers of the informant. On this basis, the Application is opposed.

7. Learned counsel appearing for the first informant has also opposed grant of any relief to the Applicants submitting that the Applicants may further cause injuries and they may threaten the informant.

8. This Court has perused the material on record. The injury certificate indeed indicates that the informant suffered injuries, including a grievous injury i.e. fracture to a finger of the informant. In this regard, a specific submission made on behalf of the Applicants will have to be considered to the effect that even if the statement of the informant is to be accepted, Section 326 of the IPC may not be applicable, as it pertains to voluntarily causing grievous hurt by dangerous weapons or means. It is submitted that at the most, Section 325 of IPC may be applicable, wherein prescribed punishment is imprisonment for a term which may extend to seven years.

9. This Court is of the opinion that there is *prima-facie* substance in the contention raised on behalf of the Applicants with regard to applicability of Section 326 of IPC, for the reason that the Applicant No.2 allegedly used the wooden handle of the Spade and not the metallic part. To that extent, the use of the said tool may not fit the description of a dangerous weapon. Apart from this, it is specifically stated in the Application that the Applicants have already filed an Application under Section 156(3) of the CrPC before the jurisdictional Magistrate at Pune on 20.03.2024, against

the informant for the offences under Sections 420, 465, 467, 471, 447, 448 r/w 34 of IPC. While learned APP can verify details of the same, filing of such an Application prior in point of time *prima-facie* does indicate that the parties appear to be at loggerheads. In such a situation, so long as the Applicants appear before the Investigating officer and co-operate with the investigation, interim relief can be granted.

10. In view of the above, there shall interim order as follows:-

- (a) Till the next date of listing, in the event the Applicants are arrested in connection with FIR No.0575 of 2024 dated 30.06.2024 registered with Chaturshrungi Police Station, District Pune, they shall be released on bail on furnishing PR bond of Rs.25,000/- each with one or two sureties in the like amount.
- (b) The Applicants shall appear before the Investigating Officer on 16th August, 2024 and thereafter as and when called by the Investigating Officer.
- (c) The Applicants shall not in any manner get in touch with the informant. They shall not tamper with the evidence. They shall co-operate with the investigation. They shall not influence the informant, witnesses or any other person concerned with the present case.

11. Needless to say, violation of any of the aforesaid conditions may lead to recall of the present order.

12. List for further consideration on 18th September, 2024 (high on board).

(MANISH PITALE, J.)