

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2673 OF 2024

1. Naim Naju Pathan
2. Nazu Hussain Pathan
3. Zubedabi Nazu Pathan ... Applicants
Vs.
State of Maharashtra ... Respondent

Mr. Narayan Rokade a/w. Mr. Abhang Suryawanshi for Applicants.

Mr. Kiran C. Shinde, APP for Respondent-State.

Mr. Tushan M. Garud, API, Ozar Police Station, Nashik Rural.

CORAM : MANISH PITALE, J.

DATE : OCTOBER 03, 2024

P.C. :

. Heard Mr. Rokade, learned counsel appearing for the applicants and Mr. Shinde, learned APP appearing for the respondent-State.

2. The applicants are apprehending arrest in connection with FIR No.0179 of 2024 dated 23.08.2024 registered with Ozar Police Station, District - Nashik Rural, for offences under Sections 3(5), 132, 351(2), 351(3) and 352 of Bharatiya Nyaya Sanhita, 2023 (BNS), as also under Sections 112 and 117 of the Maharashtra Police Act, 1951 and Section 3(1) of the Prevention of Damage to Public Property Act, 1984.

3. The informant, in the present case, is a Village Development Officer and he has stated that the applicants and one more co-accused person created a scene in the office of the Grampanchayat, Kasbe Sukene on 21.08.2024. It is alleged that the accused persons abused and thereafter assaulted an employee working for the said Grampanchayat in the context of issuance of a document. When one of the co-accused persons was requested to wait, he showed impatience and called the other accused persons. Thereafter, they assaulted the said employee of the Grampanchayat and also damaged the property in the office of the

Grampanchayat. The names of other employees of the Grampanchayat, who were present at the time of the incident, are specifically stated in the statement that led to registration of the FIR. It is also brought to the notice of this Court that there are two criminal antecedents against the applicants.

4. The learned counsel for the applicants submitted that in this case, even the applicant No.3 had submitted a complaint, but there was no progress with regard to the same.

5. This Court has perused a copy of the said complaint at exhibit-E. It was submitted on 25.08.2024 i.e. after the subject FIR was already registered on 23.08.2024.

6. The learned counsel for the applicants submits that the incident has occurred in the backdrop of a grievance of one of the applicants that a document was not being issued promptly by the employee of the Grampanchayat. This led to a quarrel and the employees of the Grampanchayat came together to raise the fictitious grievance against the applicants. It is submitted that in any case, the assault was only by means of fists and kicks and no weapon was used. It is further submitted that the criminal antecedents to which reference is made by the Sessions Court pertain to cross cases and therefore, the said aspect may not be held against the applicants. It is submitted that the applicants are ready to co-operate with the investigation and physical custody of the applicants may not be required.

7. On the other hand, the learned APP has invited attention of this Court to statements recorded during the course of investigation. These are the statements of the employees of the Grampanchayat whose names are specifically mentioned even in the statement of the informant, leading to registration of the FIR. The learned APP submits that all the five statements of the witnesses support and corroborate the description

of the incident given by the informant i.e. the Village Development Officer. In that light, it is submitted that since overt acts are attributed to all the three applicants and the offences are of serious nature, particularly offence under Section 132 of the BNS, no indulgence may be shown to the applicants.

8. This Court has considered the material on record, particularly the statement of the informant as well as the statements of the witnesses recorded during the course of investigation. A perusal of the same indicates that one of the applicants had a grievance about the issuance of a particular document in the office of the Grampanchayat. It appears that when the employee of the Grampanchayat, who was assaulted, asked the said applicant to wait for a while for issuance of the document, he started abusing the said employee, called the other accused persons (applicants) and all the applicants together created a scene in the office of the Grampanchayat. There are specific allegations against all the three applicants regarding assault on the employees of the Grampanchayat, damage to the property of the Grampanchayat and also a specific allegation about a punching machine being thrown on the victim. The learned APP submits that this caused an injury on the chest of the said employee as has been revealed during the course of investigation. The ingredients of the offence under Section 132 of the BNS are *prima facie* made out against the applicants.

9. The applicants have criminal antecedents and this is also taken note of by the Sessions Court, while granting anticipatory bail to the co-accused person and rejecting the prayer of the applicants.

10. Considering the material on record, no indulgence can be shown to the applicants. Hence, the application is dismissed.

(MANISH PITALE, J.)