



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.86 OF 2024

Bharat s/o Ram Madnani and others

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Kamptee, Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. J. M. Gandhi, Advocate for applicants.
Mr. Nitin Autkar, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/03/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.47/2024 registered with Police Station, Kamptee, Nagpur for the offence punishable under Sections 307, 324, 450, 452 read with Section 34 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, the applicants approached this Court for grant of pre-arrest bail.

2. The applicants are apprehending arrest at the hands of Police, as crime is registered on the basis of order dated 27.12.2023 passed by the learned Judicial Magistrate First Class, Court No.2, Kamptee in Criminal Application No.233/2023 under Section 156(3) of the Code of Criminal Procedure (Cr. P.C.).

3. Learned Counsel for the applicants submitted that this application under Section 156(3) of Cr. P. C. is filed by the complainant after eight months of the incident. In fact, regarding the said incident, the applicants have already filed the report vide Crime No.176/2023 registered under Sections 452, 324, 504 and 506 read with Section 34 of the Indian Penal Code on an allegation that on 17.04.2023 present applicants and other family members were assaulted by the complainant and the others. To give counterblast to the said complaint, this false application is filed by the complainant before the Magistrate and the learned Magistrate without considering the background under which the complaint is filed, issued the direction to register the FIR. As far as the custodial interrogation of the present applicants is concerned, which is not required. After protecting the applicants by granting ad-interim protection they have cooperated with the investigating agency. In view of that, interim protection granted to the present applicants deserves to be confirmed.

4. Learned APP strongly opposed the application on the ground that though earlier complaint was filed by the present applicants but the recitals of the FIR show that the informant and his family members were not only assaulted but they were threatened and they were in a scared condition. He submitted that the custodial interrogation of the

present applicants is required and prays for rejection of the application.

5. Learned Counsel for the non-applicant No.2 is absent today. In his reply, he has mentioned that the present application is nothing but classic example of forum shopping and the abuse of the process of Court. For this pleading, he has already furnished his oral apology. The learned counsel for the non-applicant No.2 shall not commit such type of mistake in future.

6. After hearing the learned Counsel for the applicants and the learned APP for the State, perused the investigation papers. As far as the fact that the present applicants have filed the earlier FIR vide Crime No.176/2023 is not disputed. As far as the subsequent crime is concerned, in connection with Crime No.47/2024 after investigation, the Investigating Officer has already filed 'B' summary report before the learned Judicial Magistrate First Class. Considering the fact that the 'B' summary report is filed by the investigating agency and the applicants have already cooperated with investigating agency, their custodial interrogation is not required, therefore, the application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.

(ii) In the event of arrest, the applicant **No.(1) Bharat s/o Ram Madnani, No.(2) Amber s/o Nandlal Dayani, No.(3) Saurabh s/o Narendra Lalwani, No.(4) Pankaj s/o Motiram Manglani and No.(5) Aman s/o Prakash Shukla** be released on anticipatory bail in connection with Crime No.47/2024 registered with Police Station, Kamptee, Nagpur for the offence punishable under Sections 307, 324, 450, 452 read with Section 34 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall furnish their cell phone numbers and address with address proof.

(iv) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)