



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

CRIMINAL APPLICATION (ABA) NO. 138 OF 2024

Mohd.Shakir Mohd. Hanif and others V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.V.Sirpurkar, counsel for the applicants.

Mr. H.R.Dhumale, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 17/04/2024.

1. Apprehending their arrest at the hands of Police in connection with Crime No. 28/2024 registered with Police Station Pimpalgaon Raja, Tahsil Khamgaon District Buldhana for the offence punishable under Sections 143, 147, 148, 324, 326, 506 read with Section 149 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. Mr. S.V.Sirpurkar, learned counsel for the applicants have withdrawn the application as far as the applicant No.1- Mohd. Shakir Mohd. Hanif is concerned. He further submitted that as far as applicant Nos. 2 and 3 are concerned, against whom the allegation is made that they have assaulted by stick to one Athar Khan Mazar Khan who was immediately discharged from the hospital. Thus, the offence under Section 326 of the IPC is not made out against them.

3. Learned APP strongly opposed the said application on the ground that in the alleged incident three prosecution

witnesses have sustained the injuries, out of them, one Ataulah Khan has sustained grievous injuries i.e. in the nature of the fracture. Considering the role attributed to the present applicants, the prayer for grant of ad-interim protection deserves to be rejected.

4. Having heard learned counsel for the applicants and learned APP for the State, perused the investigation papers as well as the statements of the various witnesses and the injury certificate. As far as the applicant Nos. 2 and 3 are concerned, the allegations against them that they have assaulted one Athar Khan. The medical certificate of said Athar Khan is on record, which shows that he has sustained the simple injury and after medical treatment, he was immediately discharged from the Hospital. The application as regards the applicant No.1 is already withdrawn by the learned counsel for the applicant. Considering the role attributed to the applicant Nos. 2 and 3 is concerned, which is not made out the case under Section 326 of the Indian Penal Code. Moreover, custodial interrogation of the present applicant Nos. 2 and 3 is not required. As far as the part of the seizure of any weapon is concerned, it is already seized by the investigating agency. In view of that, the interim protection granted deserves to be confirmed. Accordingly, I proceed to pass following order:

- a) The criminal application is allowed.
- b) In the event of their arrest, in connection with Crime No. 28/2024 registered with Police station Pimpalgaon Raja, Tahsil Khamgaon District

Buldhana for the offence punishable under Sections 143, 147, 148, 324, 326, 506 read with Section 149 of the Indian Penal Code, 1860, the applicant Nos. **2 Mohd. Rashid Mohd. Hanif and 3. Mohd. Arif Mohd. Hanif** shall be released on anticipatory bail, on executing PR Bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount.

- c) The applicant Nos. 2 and 3 shall attend the concerned Police Station as and when required for the investigation purpose, and the investigating officer shall issue notice in advance to them if their presence is required for the investigation purpose.
- d) The application as regards the prayer of the applicant No.1 is concerned, is already withdrawn, hence the application is disposed of.
- e) The applicant Nos. 2 and 3 shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]