



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

CRIMINAL APPLICATION (BA) NO. 152 OF 2024

Kunal Sudhir Sawale and others

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station,
Malkapur City, District Buldhana

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

Court's or Judge's orders

Mr. Sanket Bhalerao, Advocate for applicants.

Ms. H. S. Dhande, APP for respondent/State.

Mr. V. S. Giramkar, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 18/03/2024

Criminal Application (APPP) No.325/2024

1. The application filed by the informant seeking permission to engage Counsel to assist the prosecution.

2. In view of the reason mentioned in the application, the informant is permitted to engage Counsel to assist the prosecution.

The application is disposed of.

CRIMINAL APPLICATION (BA) NO. 152 OF 2024

1. The applicants came to be arrested on 11.01.2024 in connection with Crime No.19/2024 registered with Police Station, Malkapur City, District Buldhana for the offences punishable under Sections

326, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicants is on the basis of report lodged by one Ajay Prabhakar Sawale alleging that on 11.01.2024 he got a telephonic call of his wife, who informed him that his brother namely Sanjay Prabhakar Sawale is being assaulted by the present applicants at Nimwadi square. He immediately rushed to the spot and witnessed that all these applicants were assaulting his brother by means of the iron rod. He attempted to rescue the quarrel, but he was also assaulted by the present applicants. On the basis of said report, police have registered the crime.

3. Learned Counsel for the applicant submitted that as far as the allegations are concerned, which are general in nature, all the applicants have assaulted the injured and the informant. The incriminating articles the iron rods are already seized by the police, during the investigation. The injured are already discharged from the hospital and there are no life threatening injuries sustained by the injured or the informant. The investigation is practically completed. The further incarceration of the present applicants is not required and hence, they be released on bail.

4. Leaned APP and learned Counsel for the complainant strongly opposed the application on the ground that there are criminal antecedents against the present applicants. The injured has sustained two grievous injuries in the alleged incident. If the applicants are released on bail, they will tamper the prosecution evidence and would not be available for trial and prays for rejection of the application.

5. Having heard the learned Counsel for the applicants and learned APP for the State and learned Counsel for the complainant and on perusal of the investigation papers, it reveals that in the said incident the injured Sanjay had sustained in all six injuries, out of which two injuries sustained by him are grievous in nature. The complainant has also sustained the injuries in the nature of abrasion and contusion. Both the injured are discharged from the hospital and from the nature of the injury it appears that injuries are not in the nature of life threatening injuries. The incriminating weapons are already recovered by the investigating agency and forwarded to the Medical Officer for obtaining the opinion. The opinion of the Medical Officer shows that such injuries sustained by the injured are possible by the weapons seized by the investigating agency. Thus, admittedly, *prima facie* case is made out against the present applicants, but considering now the investigation is completed practically, though charge-sheet is not yet filed. From the investigation papers, it reveals that no

investigation has remained to be carried out. Moreover, the injury certificate shows that the injured are already discharged from the hospital. Merely because, there is one criminal case registered against the present applicants, their liberty cannot be curtailed. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant No.(1) **Kunal Sudhir Sawale** No.(2) **Ravindra Madhukar Gavhande** and No.(3) **Nilesh or Balu Ashok Sawale**, shall be released on bail in connection with Crime No.19/2024 registered with Police Station Malkapur City, District Buldhana for the offences punishable under Sections 326, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- (iii) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (iv) The applicants shall attend the trial Court without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)