



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION NO.1453 OF 2024 IN
CRIMINAL APPLICATION (ABA) NO.553 OF 2024**
(Jibran Ashfaq Fakirawale and anr. Vs. The State of Maharashtra)

AND

**CRIMINAL APPLICATION NO.1455 OF 2024 IN
CRIMINAL APPLICATION (ABA) NO.566 OF 2024**
(Adnan s/o Sadik Parsuwale Vs. 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

ABA No.566/2024

Mr. T.J. Malnas, Advocate for the applicant.
Mrs. M.A. Barabde, APP for the State
Mr. J.A. Malnas, Advocate for Assist to Prosecution.

ABA No.553/2024

Mr. S.G. Varshani, Advocate for the applicant.
Mrs. M.A. Barabde, APP for the State
Mr. J.A. Malnas, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 14, 2024

Heard.

2. By these applications, the original complainant is seeking permission to assist the prosecution by engaging the Counsel.

3. In view of the contention raised in the applications and the applications are filed by the original complainant, permission is granted to engage the Counsel to assist the prosecution.

4. Both the applications are allowed and disposed of accordingly.

CRIMINAL APPLICATION (ABA) NO.566 OF 2024
AND
CRIMINAL APPLICATION (ABA) NO.553 OF 2024

By preferring these applications, the applicants are seeking pre-arrest bail in connection with Crime No.319 of 2024 registered with police station Digras, District Yavatmal for the offence punishable under Sections 307, 326, 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 Mohammad Ajim Mohammad Taslim on an allegation that on 22/05/2024 at about 9:00 p.m. after having dinner he was walking in front of his house, at that time accused – Avesh Mubarak Pursewala and Adnan Pursewala who is the present applicant holding stick and iron pipe in their hands. There was hot altercation of words between them and on that count the co-accused Avesh assaulted him by means of iron pipe on his head and on his right hand and the other applicant Jibran Ashfaq Fakirawale who has filed an application bearing No.553 of 2024 assaulted him on his neck by the iron pipe, due to which he has sustained the grievous injuries. On the basis of said report, police have registered the crime against all the applicants as well as the co-accused.

3. Learned Counsel for the complainant submitted that in furtherance of common object, they

have assaulted the injured, and therefore, specific role is attributed to them and their custodial interrogation is required.

4. Learned APP also strongly opposed the applications on the similar grounds.

5. I have heard learned Counsel for both the parties in both the applications. Perused the investigation papers from which it reveals that as far as the recitals of the FIR are concerned there is only allegation against the applicant - Adnana that he has assaulted by means of stick. As far as applicant – Mubarak is concerned there is no allegation that he has assaulted the informant. On perusal of the injury certificate and the recitals of the FIR it reveals that as far as the applicants Adnan and Mubarak are concerned against whom the allegation of the assault by them is levelled but the corresponding injuries are not there in the medical certificate. As far as Jibran Ashfaq Fakirawale is concerned who allegedly assaulted the injured on his right leg which is substantiated by the medical certificate. Considering the same, Criminal Application (ABA) No.553 of 2024 deserves to be partly allowed. Accordingly, I proceed to pass the following order:

(i) Criminal Application (ABA)
No.566/2024 is allowed.

(ii) Criminal Application (ABA)
No.553/2024 is partly allowed.

(iii) The application of Jibran Ashfaq Fakirawale is hereby rejected.

(iv) In the event of the arrest, the applicant – Adnan s/o Sadik Parsuwale in Criminal Application (ABA) No.566/2024 and the applicant – Mubarak Ramzan Parsuwale in Criminal Application (ABA) No.553/2024, in connection with Crime No.319 of 2024 registered with police station Digras, District Yavatmal for the offence punishable under Sections 307, 326, 504 and 506 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

(v) The applicants shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 pm. and shall cooperate with the investigating agency.

(vi) The applicant – Adnan shall produce the stick before the Investigating Officer and said period shall be considered as his custody for the purpose of Section 27 of the Indian Evidence Act.

(vii) The applicants – Adnan and Mubarak shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

6. Both the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*