



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

CRIMINAL APPLICATION (ABA) NO. 560 OF 2024

Babbu Gulab Pathan and another

Vs.

State of Maharashtra, Through Police Station Officer, Police Station
Deulgaon Raja, 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. S. U. Deshmukh, Counsel for applicants.
Ms. H. N. Prabhu, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/08/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.264/2024 registered with Police Station, Deulgaon Raja, District Buldhana for the offences punishable under Sections 506, 504, 323, 307 read with Section 34 of the Indian Penal Code, the applicants approached this Court for grant of pre-arrest bail.

2. The applicants are apprehending arrest at the hands of police as informant Yejdan Khan Aman Khan Pathan has lodged the report on an allegation that there was a previous dispute between him and the present applicants as the informant has obtained the amount of Rs.7,000/- from them and could not return it back. On demand, he informed the present applicants that he would repay it within a short span of time but on the day of incident i.e. on 26.06.2024

both the applicants abused him, assaulted him and also pressed his neck. On the basis of the said report, police have registered the crime.

3. Learned Counsel for the applicant submitted that as far as the FIR is concerned, which is after four days and no explanation is put forth by the informant for the said delayed FIR. He further submitted that the informant was referred to the higher center and was treated there however, none of the medical opinion discloses that any injury was found as to the allegations. Now, the various statements of the witnesses are already recorded. As far as the custodial interrogation of the applicants is concerned, which is not required. In view of that, they be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application and submitted that two external injuries are found on the person of the informant, when he was examined on 26.06.2024 itself. As his health was deteriorating, he was referred to the higher center and was examined and treated at the higher center. Thus, there was an attempt to eliminate him, in view of that, the anticipatory bail application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that two

injuries are found on the person of the informant i.e. abrasion and contusion which are simple in nature. As far as the injury on the neck is concerned, none of the medical certificates issued by the General Hospital at Aurangabad also not showing any injury on the neck of the informant. One statement of the Medical Practitioner was recorded wherein he has stated that there was swelling on the food pipe of the informant when he examined him. As far as the swelling on the food pipe is concerned, at this stage, it cannot be said that said swelling is due to the pressing of the neck by the present applicants. Considering the entire investigation papers, it reveals that the alleged incident has occurred due to the money transactions between the present applicants and the informant. As far as the custodial interrogation is concerned, which is not required as nothing is to be seized from the present applicants. Admittedly, the custodial interrogation is one of the consideration and not the sole consideration but considering the circumstances under which alleged incident has taken place and there is a delay of four days which is not explained. The injuries found on the person is also simple in nature, in view of that the applicants have made out a case for grant of anticipatory bail. In view of that, I proceed to pass following order:

ORDER

- (i) The application is allowed.

(ii) In the event of arrest, the applicant **No.1 Babbu Gulab Pathan and No.2 Firoz Gulab Pathan** shall be released on anticipatory bail, in connection with Crime No.264/2024 registered with Police Station, Deulgaon Raja, District Buldhana for the offences punishable under Sections 506, 504, 323, 307 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 of 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 not enter into the vicinity of Islampura, Deulgaon Mahi, Taluka Deulgaon Raja, District Buldhana, till filing of the charge-sheet.

(v) The applicants shall attend the concerned Police Station on Sunday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)