



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

CRIMINAL APPLICATION NO.1736 OF 2024
IN
CRIMINAL APPLICATION (ABA) NO.638 OF 2024
(Kailas s/o Prakash Golait and anr. Vs. The 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. N.B. Kalwaghe, Advocate for applicants.
Mrs. M.A. Barabde, APP for the State.
Mr. S. Deshmukh, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 25, 2024.

Heard.

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

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

4. The application is allowed and disposed of accordingly.

CRIMINAL APPLICATION (ABA) NO.638 OF 2024

Heard.

2. Learned Counsel for the applicant, on instructions, seeks permission to withdraw the application for applicant No.1.

3. Permission is granted to withdraw the application.

4. Apprehending the arrest at the hands of police in connection with Crime No.476/2024, registered with Police Station, Mehkar, District Buldhana for the offences punishable under Sections 118(1), 189(2), 191(2), 191(3), 190, 115(2), 352 and 351(2) of the Bhartiya Nyaya Sanhita, 2023, applicant No.2 approached this Court for grant of pre-arrest bail.

5. The crime is registered on the basis of report lodged by Shyam Bhagwat Devkar alleging that on 13.07.2024 at about 5.00 p.m. when he along with his father was working near the cattle-shed, at that time, he saw Vijay Jaysing Golait and Jaysing Ramsing Golait carrying their bullock-cart from the agricultural field. They restrained them as it may cause loss to the crops and on that count, the present applicant i.e. applicant No.2 and the other co-accused have assaulted him as well as his father. On the basis of said report, police have registered the crime against the present applicants.

6. As far as the present applicant No.1 is concerned for whom learned Counsel, on instructions, have already withdrawn the application.

7. As far as applicant No.2 is concerned against whom it is alleged that he has given a blow on the back by

stick. The stick is already recovered. There is no allegation that he has given repeated blows. It appears that FIR was lodged after ten days. Considering that now stick is already recovered and alleged incident has taken place due to the previous dispute. He submitted that considering the said aspect, the custodial interrogation of the applicant No.2 is not required. In view of that, interim protection granted to applicant No.2 deserves to be confirmed.

8. Learned APP and learned Counsel for the complainant strongly opposed the said application on the ground that specific role is attributed to the present applicant No.2 who has given a blow by stick on the back of the injured, and therefore, the application deserves to be rejected.

9. I have heard learned Counsel for both the parties. Perused the recitals of the FIR from which it reveals that out of previous dispute the alleged incident has taken place. As far as applicant No.2 is concerned only role attributed to him that he has given one blow on the back of one Bhanudas Devkar. The stick is already recovered, the blow is not on the vital part. Considering all these aspects, the prayer for grant of pre-arrest bail as far as applicant No.2 is concerned deserves to be allowed. In view of that, I proceed to pass following order:

- (i) The application is partly allowed.
- (ii) The application for applicant No.1 is disposed of as withdrawn.
- (iii) In the event of arrest, applicant No.2 - Dilip s/o Shivsing Golait shall be released on anticipatory bail in connection with Crime No.476/2024, registered with Police Station, Mehkar, District Buldhana for the offences punishable under Sections 118(1), 189(2), 191(2), 191(3), 190, 115(2), 352 and 351(2) of the Bhartiya Nyaya Sanhita, 2023, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iv) Applicant No.2 shall attend the concerned Police Station as and when required for the investigation purpose and shall co-operate with the investigating agency.
- (v) Applicant No.2 shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

10. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)