



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

CRIMINAL APPLICATION (ABA) NO. 725 OF 2024

Chetan @ Swagat Dilip Mogare and others 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

Mr. V.B. Bhise, counsel for the applicants.

Mrs. H.N. Prabhu, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/10/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.474/2024 registered with Police Station, Akot, District Akola for the offences punishable under Sections 118(1), 118(2), 352, 351(2) and 3(5) of the Bhartiya Nyaya Sanhita, 2023.

2. The applicants are apprehending arrest at the hands of police as a crime is registered on the basis of a report lodged by Vishal Ramnath Satyal on an allegation that on the day of the incident, there was a scuffle between two families, and in that incident, he was assaulted by the applicants and abused him. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned counsel Mr. Bhise for the applicants submitted that, as far as applicant No. 1 is concerned, he is withdrawing the application for applicant No. 1. And as far as the applicant Nos. 2 and 3 are concerned, the role

attributed to them is assault, not on the vital part. He submitted that the applicant No. 3 has only the role of abusing the informant. It is a counterblast to the complaint filed by the applicant No. 2. As far as the custodial interrogation is concerned, which is not required. He submitted that, though there is an allegation against the applicant No. 2 of the assault, but is a non-vital part, and in view of that, he also be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application and submitted that there is a specific role attributed to the applicant No. 2, and she has assaulted by means of iron pipe, and said iron pipe is to be recovered, and therefore, the custodial interrogation is required. In view of that, the application of applicant No.2 is also deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, though role is attributed to the applicant No. 2 that he has assaulted, but the assault is on a non-vital part. As far as the recovery of the weapon is concerned, which can be taken care of by imposing certain conditions on him, The role attributed to applicant No. 3 is only to the extent of abuse. In view of that, the prayer of the applicant No. 3 deserves to be allowed.

a] The criminal application is allowed.

- b] In the event of arrest, in connection with Crime No.474/2024 registered with Police Station, Akot, District Akola for the offences punishable under Sections 118(1), 118(2), 352, 351(2) and 3(5) of the Bhartiya Nyaya Sanhita, 2023, the applicant No.2 -Saksham Kalichanran Mogare, and applicant No.3 Smt Sangita Durgaprasad Chaudhari 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 application to the extent of applicant No.1 is disposed of as withdrawn.
- d] The applicant No. 2 shall attend the concerned police station on Sunday i.e. on 27/10/2024 between 10.00 a.m. to 01.00 p.m. and shall produce the iron pipe which is used before the Investigating Officer and the said period will be considered as his custody for the purpose of Section 23(2) of Bhartiya Saksha Adhiniyam 2023.
- e] The applicant Nos. 2 and 3 shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.

- f] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]