



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

CRIMINAL APPLICATION (ABA) NO.756 OF 2024

Swapnil s/o Darasingh Pajai and others

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Channai, District Akola

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

Court's or Judge's orders

Mr. K. R. Giripunje, Counsel h/f Mr. S. V. Sirpurkar, Counsel for the
applicant.

Mr. H. D. Dubey, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 19/11/2024

1. By this application, the applicants are seeking pre-arrest bail in connection with Crime No. 353/2024 registered with Police Station Channi, District Akola for the offence punishable under Sections 189(2), 191(2), 190, 309(6), 118(1) and Section 296 of the Bhartiya Nyaya Sanhita, 2023.

2. Learned Counsel for the applicants submitted that as per the allegation on 01/10/2024, there was altercation of the words between the present applicants and the informant and other family members, and on that count, it is alleged that present applicants have assaulted the informant and other prosecution witnesses, in which the informant and the prosecution witnesses have sustained the injuries. He submitted that, in fact, an afterthought,

this false FIR is lodged against the present applicants. There are cross-complaints filed regarding the said incident. In view of that, the applicants be protected by granting anticipatory bail. He further submitted that only to make an offence a non-bailable one, the crime is registered under Section 309(6) by alleging that the present applicants have removed the amount of Rs.8,500/- from his pocket. In fact, no such incident has been taken place. In view of that also the applicant be protected.

3. Learned APP strongly opposed the said application and submitted that the weapons as well as the amount of Rs.8,500/- is to be recovered from the present applicants. In view of that, the application deserves to be rejected.

4. After hearing both sides and on perusal of the investigation papers it reveals that during the altercation of words between the two parties and during the free fight between them, both parties have sustained the injuries in the said incident. As far as the present crime is concerned, which apparently appears to have been lodged after two days. There is no plausible explanation as to the delay, but considering the circumstances under which the alleged incident has taken place, and by considering the aspect that the weapons are yet to be recovered, the application deserves to be allowed

by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

a] The application is allowed.

b] In the event of arrest, in connection with Crime No. 353/2024 registered with Police Station Channi, District Akola for the offence punishable under Sections 189(2), 191(2), 190, 309(6), 118(1) and Section 296 of the Bhartiya Nyaya Sanhita 2023, the applicants **(1) Swapnil s/o Darasingh Pajai, (2) Sachin s/o Darasingh Pajai, (3) Darasingh s/o Ramkrushna Pajai, (4) Anita w/o Darasingh Pajai, (5) Praful s/o Mohan Kurai and (6) Akash Vishwanath Zodpe** shall be released on anticipatory bail, on executing P.R. Bond of Rs.25,000/- each with one solvent surety in the like amount.

c] The applicants **Swapnil** and **Sachin** shall produce the iron rod and iron pipes before the Investigating Officer, by attending the Police Station on Sunday between 10.00 a.m. to 01.00 p.m. and the said period will be considered as their custody in view of Section 27 of the Evidence Act, (Section 23(3) of the Bharatiya Sakshya Adhiniyam, 2023) and shall cooperate with the investigating agency.

d] The applicants shall also attend the Concerned Police Station once in a week on Sunday

(4)

24.aba.756.2024.b.

between 10.00 a.m. to 1.00 p.m., till filing of the charge-sheet.

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

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)