



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

CRIMINAL APPLICATION (ABA) NO. 51 OF 2024

Amir Shah Jafar Shah V/s State of Maharashtra and another

WITH
CRIMINAL APPLICATION (ABA) NO. 799 OF 2023

Salman Shah Jafar Shah V/s State of Maharashtra and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. P.W. Mirza, counsel for the applicants.
Mr. V.A. Thakre, APP for the non-applicant/State.
Mrs. Shubhada K. Phaltankar, counsel (appointed) for the
non-applicant No.2. (ABA No. 51/2024).
Mrs. Anuprita Mishrikotkar, counsel (appointed) for non-applicant No.2
(ABA No. 799/2023)

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/03/2024.

1. By these applications, the applicants are seeking pre-arrest bail, in connection with Crime No. 143, 147, 148, 395, 354, 354-B, 452, 324, 323, 336, 294, 427 read with Section 149 of the Indian Penal Code, 1860 and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicants is on the basis of the report lodged by neighbor of the victim, on an allegation that on 12/11/2023 at about 7.30 p.m. when she along with her neighbors preparing to proceed towards the temple and therefore they gathered together in front of the house, at that time, the present applicants along with other

co-accused came by holding weapons in their hand and outraged the modesty of the victim by obscene signs and indecent gestures to her and also abused her.

3. It is further alleged that they have also snatched the Mangalsutra of the informant and when she shouted for help, her son and neighbor came to help her, at that time, they assaulted her son as well as her neighbor – Vaibhav Aaware. It is further alleged that the present applicants have entered into the house along with weapons and caused damage to her house. On the basis of said report, the Police have registered the crime against the present applicants.

4. The learned counsel for the applicants submitted that both the applicants to whom, no specific role is assigned. It is further submitted that as far as the applicant namely Salman is concerned, general allegations is made against him and the co-accused Juned, to whom a similar role is assigned, is already released on anticipatory bail by the Sessions Court. He further submitted that due to the community dispute, these applicants are implicated falsely. Their custodial interrogation is not required. In view of that, applicants be released on pre-arrest bail.

5. The learned APP strongly opposed the said application and submitted that the specific role is attributed to the present applicants, who not only came at the spot by holding weapons but they have outrage the modesty. They have pelted burning crackers on the person of the witnesses as well as the victim. On the basis of same, crime is registered.

He submitted that the applicants have formed an unlawful assembly and in pursuance of the common object of the said assembly, the offence is committed.

6. The learned counsel for the informant also endorsed the same contention and submitted that, subsequent to the incident, the witnesses were threatened by the present applicants. Regarding the same, the victim has lodged the report by filing an application before the Police Authorities.

7. After hearing learned counsel for the applicants and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals that on 12/11/2023, during Diwali Festival, the applicants who were the members of the unlawful assembly, came near the house of the informant and other witnesses by holding weapons in their hands, they have not only came at the spot but the present applicants thrown the burning crackers on the person of the victim and the other witnesses and also caused the damage to their houses. It seems from the statements of the witnesses, that the present applicants have attempted to create terror in the vicinity and threatened the victim as well as the other witness. Though learned counsel for the applicants submitted that the similar role is attributed to Juned and in view of that Salman is to be released on bail in the event of his arrest on the ground of parity.

8. On perusal of the statement of various witnesses, it reveals that the role attributed to the Salman is not similar to the role attributed to the Juned but specific allegations made

against him, that he was creating a terror and also making the obscene signals to the victim and also thrown the burning crackers on her person.

9. Considering the nature of the offence committed by the present applicants, an attempt was to create a terror in the vicinity, the applicants are not entitled for any protection. In view of that, both the applications deserves to be rejected. Accordingly, I proceed to pass the following order:

- a] Both the applications are **rejected**.
- b] The fees of the learned appointed counsel in both the applications be quantified as per the Rules.

[URMILA JOSHI-PHALKE, J.]