



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

CRIMINAL APPLICATION (ABA) NO. 336 OF 2024

Hamid Khan Alam Khan and others V/s 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. Anil S. Mardikar, Senior Counsel with Mr. Jafar Malnas, counsel with
Mr. Anand Parchure, counsel for the applicants.
Mr. M.J.Khan, APP for the non-applicant/State.
Mr. Parvez Mirza, counsel for the non-applicant/intervenor.
Ms. Sapana S. Jadhav, counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/06/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 146/2024 registered with Police Station Nagpuri Gate, Amravati (City), District Amravati for the offence punishable under Sections 397, 352, 294, 506(2), 108, 143, 146, 147, 148, 323 read with Section 149 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. The applicants are apprehending the arrest at the hands of the Police as the crime is registered on the basis of report lodged by Syed Khalid Ali Rahemat Ali, on an allegation that there is a previous dispute between him and the present applicants on account of the plot bearing No.18/1/46 situated at Arafat Colony Perfect behind Dharamkata. On the day of the incident, the present applicants came there alongwith the child in conflict with

the law, holding weapons in their hands and assaulted him, and also snatched his 15 Gram Golden Chain worth of Rs. 45,000/-. On the basis of said report, police have registered the crime against the present applicants vide crime No. 146/2024. Regarding the said incident, the cross-complaint is also lodged by one Ajiz Khan Rehman Khan vide crime No. 147/2024 registered under Sections 143, 146, 147, 148, 397, 452, 294, 506(2), 354, 354-A, 323 read with Section 149 of the Indian Penal Code, 1860 with the allegation that the informant and other prosecution witnesses have assaulted the applicant No.1 by means of iron rod and also snatched the golden chain from him. On the basis of same, the crime No. 147/2024 is registered against them.

3. The learned Senior Counsel Mr. Anil Mardikar for the applicants submitted that as far as the allegations are concerned, Plot No. 18/1/46 is owned by the present applicants, and the informant and other prosecution witnesses were the aggressors, they started breaking the wall of the house of the sister of the applicants and therefore, the alleged incident has occurred.

He submitted that as far as the allegations are concerned, regarding the snatching of golden chain, which is false and concocted. He further submitted that considering the entire allegation against the present applicants, both sides have assaulted each other. The investigating officer has not yet arrested the accused in the

cross-complaint, but the police are behind the present applicants to arrest them.

In the cross-complaint, the accused are not arrested, merely because one of the accused is a lawyer by profession. He submitted that, though the Division Bench has granted relief in favour of the informant, which is only to the extent of not to file the charge-sheet. As far as the investigation part is concerned, the Investigating Officer is permitted to carry out the investigation. He further submitted that custodial interrogation of the present applicants is not required, they are ready to cooperate with the investigating agency. In view of that, they be protected by granting ad-interim anticipatory bail.

4. The learned APP and learned counsel for the informant strongly opposed the said application on the ground that the applicants, by forming the unlawful assembly, assaulted the informant. The informant has sustained the injuries. The role of each and every accused is narrated by the informant in the First Information Report. The medical certificate is also on record. The statement of the witnesses also shows the involvement of the present applicants. The custodial interrogation of the present applicants is required for the seizure of the weapons. In view of that, the application deserves to be rejected.

5. After hearing learned Senior Counsel for the applicants, learned Additional Public Prosecutor for the State, learned counsel for the intervenor and learned

counsel for Assist to Prosecution, perused the investigation papers. There is no dispute as to the fact that cross-complaints are filed against each other, on the allegation that the property in question is owned by them. It appears that there was a previous dispute on account of the said property. As far as the informant and other prosecution witnesses are concerned, they appear to be aggressors at the spot of the incident. In the said incident, both the accused and the informant have sustained the injuries. As far as the present crime is concerned, it is alleged that all the accused have assaulted the informant by means of an iron rod stick, as well as one of the accused i.e. accused No.4 has pressed his neck. As far as the injury on the neck is concerned, which is 0.1 cm, the other injury is simple in nature. Thus, the allegation that all the accused have assaulted the informant and he has sustained injuries is not substantiated by the medical certificate. The statements of the witnesses are also recorded, which supports the contention of the informant, but the medical certificate shows only two injuries on the person of the informant, i.e. also a simple injury. As far as the custodial interrogation for the recovery of the weapons is concerned, which can be taken care of by imposing certain conditions, Accordingly, I proceed to pass the following order:

ORDER

- a] In the event of arrest, the applicants namely (1)
Hamid Khan Alam Khan (2) Jalil Khan Alam

Khan (3) Aziz Khan Rehman Khan (4) Mohd. Sameed Khan Hamid Khan (5) Ajaz Khan Aziz Khan (6) Tanvir Khan Aziz Khan, shall be released on anticipatory bail, in connection with Crime No. 146/2024 registered with Police Station Nagpuri Gate, Amravati (City) District Amravati for the offence punishable under Sections 397, 352, 294, 506(2), 108, 143, 146, 147, 148, 323 read with Section 149 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.

- b] The applicants shall attend the concerned police station on each Sunday between 10.00 a.m. to 01.00 p.m. and shall produce the weapons before the investigating officer. The said period of producing the weapons shall be considered as their custody for the purpose of Section 27 of the Indian Evidence Act, 1872. The applicants shall cooperate with the investigating agency.
- c] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]