



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

CRIMINAL APPLICATION ABA NO. 685 OF 2024
SHAIKH JABIR @ JAVED S/O SHAIKH RAHIM AND 5 OTHERS

VERSUS

THE STATE OF MAHARASHTRA THR. PSO., P.S. ANJANGAON SURJI, DIST.
AMRAVATI

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

Court's or Judge's orders.

Shri T.U. Tathod, Advocate for applicant
Adv. R.V. Sharma, (APP) for the non-applicant/State

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 27.09.2024

1. Apprehending arrest at the hands of police, the applicant in connection with Crime No.519 of 2024 dated 09.08.2024, for the offences punishable under Section 109(1), 118(1), 189(2), 189(4), 190, 191(2), 191(3) and 115(2) of the Bhartiya Nyay Sahita, 2023, the present applicant approached this Court for grant of pre-arrest bail.

2. Heard learned counsel for the applicants, who submitted that cross-complaints are filed by both the parties against each other in a free fight between two parties. The members of both the parties have sustained the injuries. The alleged incident has taken place due to the previous dispute between two families. As far as the applicant Nos.1 to 4 are concerned, there is no allegation as they have assaulted to the injured or the other prosecution witnesses. As

far as the applicant Nos. 5 and 6 are concerned, though there is allegation that they have assaulted the injured and the other prosecution witnesses but in fact they have also sustained the injuries and they are the victims in the alleged incident. As far as the custodial interrogation of the applicants is concerned, which is not required. In view of that, they be protected by granting *ad interim* anticipatory bail.

3. The learned APP strongly opposed the present application on the ground that there is a specific allegation against each of the applicants and in furtherance with common object of the unlawful assembly, they have assaulted the informant as well as other prosecution witnesses and therefore, their custodial interrogation is required to recover incriminating weapons. In view of that, the prayer for grant of *ad interim* protection, deserves to be rejected.

4. I have heard the learned counsel for the applicants and the learned APP for the State. After perusal of the recitals of the FIR as well as the cross-FIR lodged by one of the co-accused i.e. Bhure Khan Razzak Khan, wherein it is alleged that informant rather injured the witnesses and assaulted the present applicants and the other co-accused.

5. Considering the recitals of the FIR, bearing No.519 of 2024 is concerned, there is no allegation against the applicant Nos.1 to 4, as far as the assault is concerned. But there is a specific allegation

against the applicant Nos.5 and 6 and the allegation is of serious nature.

6. Considering the specific role attributed to the applicant Nos.5 and 6, their prayer for grant of *ad interim* anticipatory bail deserves to be rejected.

7. As far as the applicant Nos.1 to 4 are concerned, as nothing is to be recovered from them and there is no allegations that either they have assaulted by any weapon or fist and kick blows, their prayer for grant of *ad interim* anticipatory bail deserves to be allowed. According I proceed to pass following order:

- (i) In the event of the arrest in connection with Crime No.519 of 2024 dated 09.08.2024, for the offences punishable under Section 109(1), 118(1), 189(2), 189(4), 190, 191(2), 191(3) and 115(2) of the Bhartiya Nyay Sahita, 2023, the applicant Nos.1 to 4 i.e. Shaikh Jabir @ Javed s/o Shaikh Rahim, Shaikh Alim s/o Shaikh Rahim, Shaikh Gafur s/o Shiakh Rahim and Raheman Khan, s/o Razzak Khan, shall be released on *ad interim* anticipatory bail on executing PR Bond of Rs.25,000/- each with one solvent surety of like amount.
- (ii) The prayer of applicant Nos.5 and 6 for grant of *ad interim* anticipatory bail, is hereby rejected.

- (iii) The applicants shall attend the concerned police Station, once in a week, on Monday between 10.00 a.m. to 1.00 p.m. and shall cooperate the investigating agency.
- (iv) The applicant Nos.1 to 4 shall not induce, threat or promise to the any witnesses, who are acquaintance with the facts of the case.

Stand over **after two weeks.**

JUDGE