



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 others
Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Anjangaon Surji, District Amravati

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

Court's or Judge's orders

Mr. T. U. Tathod, Counsel for the applicants.

Mr. K. R. Lule, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/10/2024

1. Apprehending the 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 Sections 109(1), 118(1), 189(2), 189(4), 190, 191(2), 191(3) and 115(2) of the Bharatiya Nyaya Sanhita, 2023, the present applicants approached this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicants submitted that cross-complaints are filed by both the parties against each other regarding the 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 anticipatory bail.

3. The learned APP strongly opposed the said application on the ground that in furtherance of the common object of the unlawful assembly, they have assaulted the informant as well as other prosecution witnesses and therefore, the application deserves to be rejected.

4. After hearing the learned Counsel for the applicants and the learned APP for the State. Perused the investigation papers from which it reveals that the cross-complaints are filed against each other wherein the allegations are made against each.

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 anticipatory bail deserves to be rejected.

7. As far as the applicant Nos.1 to 4 are concerned, as specific allegations are not against them, their prayer for grant of anticipatory bail deserves to be allowed. According I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) In the event of the arrest, in connection with Crime No.519 of 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 Bharatiya Nyaya Sanhita, 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 anticipatory bail on executing PR Bond of Rs.25,000/- each with one solvent surety of like amount.

(iii) The prayer of applicant Nos.5 and 6 for grant of anticipatory bail, is hereby rejected.

(iv) The applicant Nos.1 to 4 shall attend the concerned Police Station, once in a week, on Monday between 10.00 a.m. to 1.00 p.m., till filing of the charge-sheet and shall cooperate the investigating agency.

(v) The applicant Nos.1 to 4 shall not induce, threat or promise any witnesses, who

(4)

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are acquainted with the facts of the case.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate