



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 ANTICIPATORY BAIL APPLICATION NO. 1703 OF 2024

1. Gaus S/o. Mohiuddin Shaikh
2. Feroz Shaikh S/o. Sardar Shaikh

Versus

The State of Maharashtra

Mr. G. R. Syed, Advocate for Applicants
Mrs. M. N. Ghanekar, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 6th JANUARY, 2025

PER COURT :-

1. Applicants apprehend arrest in connection with Crime No. 0278/2024, registered with Kandhar Police Station, District Nanded for the offences punishable under Sections 109, 189(2), 190, 352, 351(2), 329(3) of the Bharatiya Nyaya Sanhita.

2. First informant Ranjit Dubukwad reported to the police an incident occurred at 08.30 p.m. to 9.00 p.m. on 22/06/2024. He states that at that time he heard pelting of stones on his house. He further states that he found in front of his house four persons who are named in the first information report and 10 to 12 other unknown persons belonging to Muslim community. It is stated that they alleged him that in spite of asking him to delete status it did not do so. Allegations are made

against four persons who are named in the first information report. There are allegations against the unknown persons too. The first information report shows that at the time police vehicle arrived at the spot and hence the applicants fled away from the spot.

3. Learned counsel for the applicants submits that applicants' are not named in the first information report and as such there is no reason for not protecting their liberty. He further states that after his instructions applicants have no criminal history.

4. Learned APP opposed the application by submitting that the reason for causing assault on the informant is required to be considered. She drew attention of the Court to the statement of brother of informant which indicates that present applicants were assailants in the said incident. It is also contended that the police personnel who reached to the spot claim that they are in a position to identify the assailants/applicants.

5. There is dispute about the fact that only four persons are named in the first information report. There are allegations of assault caused by about 16 persons on the informant. It is the case of mob assault. However, the injury certificate indicates that there were three simple injuries caused to the informant. This makes his case doubtful as

to the effect at about 15-16 persons cause assault on him. Apart from this it is pertinent to note that the statement of Omkar, who is the brother of the informant is recorded on 30/08/2024 i.e. after eight days of the incident. The delay caused in recording statement creates serious doubt about his statement identifying present applicants. Apart from this it is pertinent to note that there is nothing to be recovered from the present applicants. Their liberty was protected by interim order. There is no grievance made by the prosecution about the liberty being misused by the applicants. Hence, application stands allowed in terms of interim order dated 10/10/2024.

(R. M. JOSHI, J.)

ssp