



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 ANTICIPATORY BAIL APPLICATION NO. 1716 OF 2024

1. Zumbarlal Kanakmal Gandhi
2. Aditya Zumbarlal Gandhi
3. Abhay Zumbarlal Gandhi

Versus

The State of Maharashtra

Mr. S. S. Bora, Advocate for the applicants
Mr. S. B. Jadhav, APP for the respondent/State

WITH

**CRIMINAL APPLICATION NO. 4280 OF 2024
IN ABA/1716/2024**

**VIJAY POPATLAL MEHER
VERSUS**

ZUMBARLAL KANAKWAML GANDHI AND OTHERS

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Mr. N. B. Narwade, Advocate for Applicant

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

PER COURT :-

1. At the outset learned counsel Mr. Narwade for the informant is permitted to assist the APP.
2. Applicants apprehend arrest in connection with Crime No. 966/2024, registered with Tophkhana Police Station, Dist. Ahmednagar, for the offences punishable under Sections 119(1), 118(1), 115(2), 352,

351(2) and 351(3) of the Bharatiya Nyaya Sanhita.

3. The allegation in the first information report is that on 26/08/2024 at about 6.00 pm, owing to the dispute with regard to the sale of plot there were verbal exchanges between the parties. It is alleged that the applicants assaulted the informant with stick on his back and hand. There is also allegation that applicant Abhay snatched moible as well as Rs.25,000/- and ATM card. Offence came to be registered on 31/08/2024

4. Learned counsel for the applicants submits that on the date of incident itself a Non Cognizable report was recorded by informant as well as present applicants with the concerned Police Station. He drew attention of the Court to NCR No. 1750/2024 which is recorded by the informant contending that in the incident occurred on that day he was assaulted with fist and kick blows. He drew attention of the Court to the application filed by the informant to assist the APP wherein even in the District Hospital, Ahmednagar the history of assault is given that he was assaulted on his hand and leg. Thus, it is his submission that there is improvisation done by the informant in respect of the said incident in order to falsely implicate applicants in this crime.

5. Learned APP opposed the application by pointing out injury

certificate indicating causing of three injuries to the informant. It is his submission that for the purpose of recovery of sticks custody of applicants is necessary.

6. Learned counsel for the informant opposed the application by submitted that the informant was hospitalized and hence immediate report could not be lodged. In order support to his submissions he has drawn attention of the Court to the medical certificate issued by private hospital.

7. Even if the contention of the learned counsel for the informant is accepted that there was some justification for not lodging report immediately, however, there cannot be any concession given to the informant for changing his version in respect of the occurrence of the incident. The report lodged on the very same day of the incident indicates that there was no use of any stick or any other weapon in the said assault. Thus, this Court finds substance in the contention of the learned counsel for the applicants that the introduction of the use of stick in the assault is mala fide. Apart from this the document placed on record by the informant himself indicates that he had given history of assault of fist and kick blows. The injuries caused to the informant are simile in nature. Considering the fact that there are dispute between the parties over the property issues, the possibility of false/ over implication

cannot be ruled out. Applicants have no criminal history behind them. Applicants liberty was protected. Nothing is brought on record to show that they abuse the liberty. Hence, application stands allowed in terms of interim order dated 10/10/2024.

8. Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp