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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 ANTICIPATORY BAIL APPLICATION NO. 1798 OF 2024

1. Akshay Balasaheb Shete
2. Vishal Namdev Vane
3. Nitin Kushor Shinde
4. Ganesh Dattatraya Chavan
5. Mahesh Sharad Darandale

... Applicants

VERSUS

1. The State Of Maharashtra
Through its Superintendent of Police,
District Ahmednagar.
2. The Police Inspector,
Sonai Police Station, Tq. Newasa
District Ahmednagar

... Respondents

.....
Mr. A.N. Barhate Patil, Advocate for Applicants
Mr. G.A. Kulkarni, APP for Respondents - State
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CORAM : HITEN S. VENEGAVKAR, J.

DATE : 30 SEPTEMBER, 2025

PER COURT :-

1. Heard both the sides.
2. The applicants prefers the present pre-arrest bail application in connection with C.R. No.0351 of 2024 registered with Sonai Police Station, District Ahmednagar for offences Punishable under Sections 118 (1), 118(2), 126(2), 189(2), 191(2), 190, 115(2) 351(2), 351(3) of the Bharatiya Nyaya Sanhita (BNS).

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3. The alleged incident has taken place on 17.08.2024 when the present applicants have approached the informant, who was plying his rickshaw. The informant was assaulted by accused Akshay Shete, Nitin Shinde, Ganesh Chavan and Mahesh @ Gotya Dharandale by using a weapon called fighter and also with kicks and blows. The reason assigned for assaulting the present informant is that the informant has posted WhatsApp message in respect of one Ramgiri Maharaj. It is also alleged that the accused persons had threatened the informant by uttering words that they will kill him if he is seen again in village Sonai. Accused Vishal Vane is alleged to have stopped his tempo in front of the informant's rickshaw so as to facilitate the other accused persons to assault the informant.

4. I have perused the injury certificate produced by the Learned APP. The said certificate mentions four injuries on the person of the informant, out of which three injuries are simple in nature and one injury mentioned as periorbital swelling, is grievous caused with hard and blunt object.

5. The Learned Advocate for the applicants argued that the applicants are falsely implicated in the present offence. According to him, the initial information provided by the informant to one news

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channel was against some unknown persons assaulting him, However, subsequently in the FIR, the informant has falsely taken the name of the present applicants. He further submitted that even by giving with the averments made in the FIR, the allegations pertaining to assault is vague and not specific. He argued that initially the FIR was registered under section 118(1) of BNS and it is only after 43 days, section 118(2) of BNS came to be applied by the police. There is no justification for such a delayed application of section 118(2) of BNS in the present offence. According to him, the nature of the injuries does not attract section 118(2) of BNS, and thus, the present offence at the highest is punishable with 7 years.

6. The learned APP, while opposing the present application, argued that there are injuries on the person of the informant which are caused due to the assault made by the present applicants by using a weapon called fighter. Though the attendance has been given to the present applicants while granting interim relief by this Court, they did not co-operate with the investigating agency, and hence the weapon could not be recovered. According to him, the weapon can be recovered only after physical custody of the applicants is handed over to the Investigating Officer. He also submitted that, merely on the basis of some WhatsApp post against the religious person, the alleged incident has taken place

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and the applicants have taken the law in their hands. Such accused cannot be set at liberty without allowing the Investigating Officer to take their custody and subjected them to interrogation.

7. I have gone through the material that has been placed on record. Without going into the merits of the matter, and connecting upon the applicability of the alleged offence, presently, I am required to see whether the custodial interrogation of the applicants is necessary or not. It is a matter of record that applicants have been protected by this court by way of interim order dated 21.10.2024 and the Investigating Officer was at liberty to summon the applicants as and when required. They were also put a certain other conditions, one of which is to co-operate with the investigating agency for further investigation. The said order has been continued by this Court from time to time. The allegations in the FIR about the informant being assaulted by the present applicants is very specific, however, out of the applicants as to who actually assaulted the informant is not mentioned, and therefore, the general statement is made in the FIR that somebody out of four of the applicants have assaulted the informant by using the weapon called fighter.

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8. In the light of the above and taking into consideration the allegations and important fact that the applicants have been protected for over a year as on today, I do not find any necessity for granting custodial interrogation of the present applicants.

9. In the result, the application is allowed and the interim protection granted to the applicant by order dated 21.10.2024 stands confirmed on the same terms and conditions.

[HITEN S. VENEGAVKAR]
JUDGE

S P Rane