



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 ANTICIPATORY BAIL APPLICATION NO. 1922 OF 2024

1. Babasaheb Amrut Hare
2. Raosaheb Narayan Hare
3. Kartik Babasaheb Hare

VERSUS

The State of Maharashtra

Ms. Pooja S. Arote h/f Mrs. Rekha Mohale a/w Mr. S. S. Choudhari,
Advocate for the Applicants
Mr. A. M. Phule, APP for the Respondent/State

CORAM : ADVAIT M. SETHNA, J.
DATE : 24 JUNE 2025

P. C. :-

1. The Applicants in this Application anticipate arrest and this is how the Application is filed. The proceedings relate to CR No. 0266/2024 registered by the Washi Police Station, District Osmanabad. The FIR has been lodged on 1 October 2024 at 00.57 hours. The date of the alleged incident as stated is 29 September 2024 from 15.30 hours to 15.40 hours. The Sections under the Bhartiya Naya Sanhita, 2023 ("BNS") invoked are 118(1), 118(2), 126(2), 115(2), 352, 351(2) read with 3(5).

Case in FIR :-

2. The Informant Sunil Hauserao Aatule (Age 42 years) had purchased agricultural land bearing Gat No. 142/B situated within the

limits of village Pargaon from his father-in-law one Tulshidas Yamaji Mind. Since then his brother-in-law Jotiram Mind was unhappy with him. On 29 September 2024 at about 2.30 pm the Informant and his cousin Mangesh Aatule had gone to said agricultural field on motorcycle to see Soyabin crop. While returning to him, at about 3.30 p. they reached in front of the house of one Pradip Kokane. At that time the father-in-law of his brother-in-law i.e. Applicant No.1 and his nephew i.e. Paraji Hare intercepted their motorcycle. They dragged the Informant and his cousin down from the motorcycle. Applicant No.1 asked the Informant as to why he purchased the agricultural field of his son-in-law. He also threatened the Informant not to enter the said field. Thereafter Applicant No.1 beat the Informant and his cousin on their hands back, chest and lap with the said of yellow coloured wire. At that time Applicant Nos.2 and 3 got down from the Tata Punch vehicle, which was parked beside, and came towards the Informant by hurling abuses. They beat the Informant and his cousin with the aid of fist and kick blows. Somehow the Informant and his cousin could escape from the clutches of Applicant Nos. 2 and 3 and started fleeing away from the said place. At that time Paraji Hare took out an iron rod kept in the vehicle and inflicted blows of said iron rod on the head and near ear of the Informant. In the said assault the Informant sustained grievous injuries. All the Applicants thereafter abused the Informant and his cousin and extended threat of

dire consequences, in case they entered the agricultural field. The Informant thereafter, lodged a report against the Applicants with Washi Police Station. In the given facts and circumstances, Fir came to be lodged.

Submissions:-

3. Heard learned Advocate for the Applicants and learned APP for the Respondent/State. With their assistance, I have perused the record.

4. Learned counsel for the Applicants would first submit that the Applicant-accused No.1 is aged 80 years. A bare perusal of the Fir according to her would reveal that there is no specific role attributed to the Applicants that she represents. The injuries even if inflicted are simple in nature. The weapon from the spot has been recovered. The panchanama has been filed. There are no eye witnesses. Investigation has substantially progressed. She would place due reliance on NC dated 28 September 2024 which according to her has been filed by the son-in-law of accused No.1. In her submission the present FIR is nothing but a counter blast but such NC which was filed on 28 September 2024, whereas the said FIR was lodged on 1 October, 2024 within a gap of about three days. She would undertake that the Applicants that she represents are ready and willing to extent complete cooperation. In such

facts and circumstances she would submit that the Anticipatory Bail Application deserves to be allowed and there is no custodial interrogation required. On the other hand Mr. Phule, learned APP would strongly object to the Anticipatory Bail Application. He would invite the Court's attention to the FIR. His submission is that there is a clear role attributed to these Applicants in as much as Applicant No.1 has assaulted the Informant with wire on the hand, back and chest leading to grievous injury. He has placed on record the investigation papers/ case diary. He would submit that from the injury certificate it appears that the injuries are simple in nature except on injury on the head of the Informant which is grievous reported as injury on the orbital root of right frontal bone with buckling of right parietal bone of the Informant. He would submit that if the anticipatory bail of such Applicants is allowed then might tamper with the evidence and influenced with the witnesses particularly because of the civil dispute pending between the parties. Mr. Phule, learned APP fairly would submit that as far as the alleged weapons are concerned, there is complete recovery from the spot and nothing remains to be recovered. He would also submit that there are no criminal antecedents reported against the Applicants.

Findings :-

5. Heard learned Advocate for the Applicants and learned APP

for the State and with their assistance perused the record. At the very outset it may be pertinent to mention that by the order dated 28 October 2024 these Applicants are granted some protection. The order mentioned that the injuries are not of serious nature. It is true that the order is an interim order. However, the observations made are duly corroborated by the injury certificate in as much as most of the injuries are simple in nature to which there is no dispute except for one injury on the head which is noted as a grievous injury. I have also considered the investigation materials/ case diary placed on record by Mr. Phule, learned APP. It is not disputed that there was a civil dispute between the parties. It is also not disputed that the NC was lodged on 28 September 2024 by the son-in-law of accused No.1 and brother-in-law of accused No.2. It appears that just after three days from the lodging of the said NC the FIR dated 1 October 2024 has been lodged. The time duration between the NC and FIR is just about three days. At this *prima facie* stage it cannot be ruled out that the incident could be a result of counter blast.

6. Mr. Phule has placed a discharge card on record which would reveal that the Informant was hospitalized from 29 September 2024 to 3 October 2024 and was discharged on 3 October 2024. It appears that there are no injuries on the vital body parts of the Informant. It is not in dispute that that alleged weapons have been fully recovered from the spot. It is also not in dispute that there are no criminal antecedents

against these Applicants. Prima facie, it appears that the provisions of Sections 118(1) and 118(2) of the BNS qua the Applicants are not attracted. The offences under most of the other Sections in the FIR are bailable. Considering the totality facts and circumstances in my *prima facie* view a case for grant of anticipatory bail has been made out by these Applicants. Though investigation is a matter of right which is not disputed custodial interrogation in every case is not a norm. In my considered view this is not a case where custodial interrogation would be warranted. The Applicants undertake to continue to extend complete cooperation in the going investigation, which has substantially progressed. Thus, the following order in my view would meet the ends of justice.

ORDER

- (i) In the event of arrest of the Applicants in connection with C.R. No. 266/2024 registered with Washi Police Station, Dist. Osmanabad for the offences punishable under Sections 118(1), 118(2), 126(2), 115(2), 352, 351(2) read with 3(5) of the BNS, the applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs. 20,000 (Rupees Twenty Thousand Only) each with one solvent sureties in the like amount.
- (ii) The applicants shall cooperate with the investigation. They shall attend the concerned police station on every Monday at 11.30 am till filing of the charge-sheet.
- (iii) The applicants shall furnish details of residential address and other contact details such as mobile number etc. to the

concerned police station. If there is any change in the contact details, the same shall be immediately informed to the concerned police station.

- (iv) The applicants shall not leave the jurisdiction of the Court without prior permission of the Court.
- (v) They shall not interfere with the evidence and shall not tamper prosecution witnesses in any manner whatsoever.

7. Needless to mention that these are *prima facie* observations made in adjudicating this ABA only.

8. The ABA is allowed in above terms.

(ADVAIT M. SETHNA, J.)

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