

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 407 OF 2023

Anant Raghunath Garje and another
..VS..

State of Maharashtra through PSO, P.S. Jaulka, Tah. Malegaon, Dist. Washim

WITH

CRIMINAL APPLICATION (ABA) NO. 411 OF 2023

Umesh S/o Babanrao Ghuge and another
..VS..

State of Maharashtra through PSO, P.S. Jaulka, Tah. Malegaon, Dist. Washim

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

Court's or Judge's orders

Mr. R.N. Ghuge, Advocate for applicants.
Mr. I.J. Damle, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : JULY 31, 2023

Heard.

2. Both these applications under Section 438 of the Code of Criminal Procedure filed by the applicants are for grant of anticipatory bail in the event of their arrest in connection with Crime No.190/2023 registered with Police Station Jaulka, District Washim, for the offence punishable under Sections 143, 147, 148, 307, 324 read with Section 149 of the Indian Penal Code. The applicants namely Anant Raghunath Garje and Hariom Anant Garje have filed Application (ABA) No.407/2023 whereas the Application (ABA) No.411/2023 is filed by Umesh Babanrao Ghuge and Mangesh Babanrao Ghuge.

3. The applicants are apprehending arrest at the hands of the police as accusations is made against them on the basis of report lodged by Suresh Khanderao Mundhe alleging that his agricultural land and land of Umesh and Mangesh is situated adjacent to each other and on 05.06.2023 at about 05.15 pm. all these four applicants along with the co-accused have thrown broken branches of Neem tree in his agricultural field, when he asked them to left the branches from his agricultural field at that time there was quarrel between them and all these applicants assaulted him as well as his brother. The specific allegations is made against the applicant Anant Garje is that he was holding stick in his hand and he gave a blow of that stick on his back as well as he has also assaulted his brother Ram by means of that stick. As far as the other applicants are concerned, allegations is against them is that they have pelted stones towards the informant, due to which, he has sustained injuries near to his left eye. On the basis of said report, police have registered the crime against the present applicants.

4. As per the contention of the present applicants that Umesh and Mangesh are the owners of the agricultural land. There is a boundary dispute pending between informant and the Umesh and Mangesh. Applicant Anant Garje is the brother-in-law of said Umesh Ghuge and Mangesh Ghuge, they had been to the agricultural field to meet the said Umesh and Mangesh and they are implicated in the alleged offence. As far as their physical

custody is concerned, which is not required as the injuries sustained by both the injured is simple in nature. Considering the same, they be protected by granting anticipatory bail.

5. Said application is strongly opposed by the State on the ground that the custodial interrogation of the applicants is required to recover the stick which is used by the applicant Anant in the alleged incident. Their custodial interrogation is required for the investigation purpose also. The injuries sustained by Mr. Ram is of serious nature and hence prays for rejection of the application.

6. Heard learned counsel Mr. Ghuge for the applicants, he invites my attention towards the medical certificate and submitted that as per the prosecution, the alleged incident has taken place on 05.06.2023 and the Ram is referred to the hospital on 06.06.2023 and he was examined at about 11.48 am. The age of the injuries shown as less than six hours and the injuries in the medical case report shown as a simple injuries. The informant has also sustained simple injuries. There was a scuffle between both the parties. They immediately went to the Police Station. The police have not referred the injured to the hospital. It is sufficiently shows that the injured persons have not received the grievous injuries. As far as the recovery of the stick is concerned, the applicant Anant Garje is ready to produce the same for the investigation purpose. He submitted that the applicant Anant is the Headmaster and other applicants

are the agriculturists and their physical custody is not at all required hence they be protected by granting anticipatory bail.

7. Learned APP strongly opposed for the same by reiterating the contention that the *prima facie* case is there. The incident is witnessed by the various eye witnesses. There is a video recording of the said incident. The injured have sustained the grievous injuries. Considering all these aspects, the applications for grant of anticipatory bail deserve to be rejected.

8. Having heard both the sides and on perusal of the investigation papers, the allegations against the Anant Garje is that he was holding stick and assaulted the injured Suresh i.e. informant on his back by means of said stick and he also assaulted another injured Ram by the said stick. As far as the other applicants are concerned, the allegations made against them are that they were pelting the stones and one stone hits the informant. Medical certificate of both the injured Suresh Mundhe and Ram Mundhe are on record. The medical examination of Suresh is carried out on 05.06.2023 at 09.30 pm. whereas the medical examination of Ram Mundhe is carried out on the next day on 06.06.2023 at about 11.48 am. His injuries are shown as a less than six hours, when he is examined after eight to twelve hours. The injuries shown in the medical certificate are simple in nature. The learned trial Court has observed that CT Scan report shows fracture of both nasal bones and

observed that the injuries is grievous and serious in nature and rejected the applications. I have also perused the CT Scan report which shows that fracture of both nasal bones with surrounding soft tissue sweeny. Thus, it is apparent that in the scuffle of two parties both the injured were assaulted and sustained injuries. The application is strongly opposed as custodial interrogation is required for the purpose of recovery of stick. If the said submission is taken into consideration, the conditions can be imposed on the applicant to produce the said stick before the Investigating Officer otherwise the injuries sustained by informant are simple in nature, only one injury sustained by Mr. Ram another injured i.e. fracture of nasal bone is though serious but not life threatening injury. As far as custodial interrogation is concerned, the applicants can be directed to attend the Police Station. In both the applications, the applicants have made out the case for grant of anticipatory bail. In view of that, I proceed to pass the following order :

- (i) Criminal Application (ABA) Nos.407/2023 and 411/2023 are allowed.
- (ii) The applicants – Anant Raghunath Garje, Hariom S/o Anant Garje, Umesh S/o Babanrao Ghuge and Mangesh S/o Babanrao Ghuge are released on anticipatory bail in event of their arrest in respect of Crime No.190/2023 registered with Police Station Jaulka, District Washim, for the offence punishable under Sections 143, 147, 148, 307, 324

read with Section 149 of the Indian Penal Code on executing P.R. bond of Rs.25,000/- each with one solvent surety in the like amount.

- (iii) The applicant Anant Raghunath Garje shall produce the stick before the Investigating Officer on 08.08.2023 by remaining present before the Investigating Officer and the said period will be considered as his deemed custody for the purpose of Section 27 of the Indian Evidence Act.
 - (iv) All the applicants shall attend the Police Station, Jaulka, Tah. Malegaon, District Washim ones in a week on Sunday between 10.00 am. to 01.00 pm. and shall co-operate the investigation agency.
 - (v) The applicants shall not induce, threat and pressurize any witnesses who are connected with the alleged crime.
 - (v) The applicants shall furnish their cellphone numbers and address with the address proof.
9. Both the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)