



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.668 OF 2023

(Sapana Akash Rathod and ors. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.N. Patre, Advocate for the applicants.
Shri V.A. Thakare, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 30, 2023.

Heard.

2. By this application, the applicants are seeking pre-arrest bail in connection with Crime No.386/2023 registered with Police Station Khandala, District Yavatmal, for offences punishable under Sections 143, 147, 148, 323, 324, 326, 504 and 506 read with Section 149 of the Indian Penal Code.

3. Learned Counsel Mr. Patre submitted that the applicants are apprehending arrest at the hands of police as out of political rivalry there was a scuffle between the two parties.

4. On 03/09/2023 at about 12.00 p.m. regarding the said scuffle, two FIR's were registered vide Crime Nos.385/2023 and 386/2023. The crime No.385/2023 is registered on the basis of report lodged by Arjun Shamrao Chavan i.e. accused No.1 in Crime No.386/2023 whereas counter FIR No.386/2023 is registered against the present applicants on the basis of

report lodged by Dashrath Shiva Chavan. He further submitted that as per the recitals of the FIR there was scuffle between Arjun Shamrao Chavan and the co-accused and co-accused have assaulted the injured Bharat Chavan, Ashwini Bharat Chavan, Nitesh Santosh Rathod and Dashrath Chavan.

5. As far as the allegations against the present applicants is concerned, it is alleged that applicant No.1 Sapana has thrown the chilly powder and applicant No.4 gave a blow of stick on the head of Nitesh Santosh Rathod. He submitted that no specific role is attributed to the other two applicants namely Vandana Dattarao Chavan and Satish Santosh Chavan. He further submitted that Nitesh has sustained the simple injuries. He is already discharged from the hospital. The incriminating articles i.e. stick is already recovered. The custodial interrogation is not required. In view of that they be protected by granting anticipatory bail.

6. Learned Additional Public Prosecutor strongly opposed the application on the ground that the applicants and the other co-accused in furtherance of their common objection assaulted the prosecution witnesses. One of the prosecution witness namely Bharat has sustained the fracture injury in the said scuffle. Investigation is still in progress. Their custodial interrogation is required. Considering the nature of the offence and weapons used by the present applicants and other co-accused, the application deserves to be rejected.

7. Having heard learned Counsel for the applicants and learned Additional Public Prosecutor for the State. Perused the FIR and the investigation papers.

8. Undisputedly, there is no allegation against applicant No.2 - Vandana and applicant No.3 – Satisch. As far as applicant No.1 is concerned only allegation against her is that she thrown the chilly powder on the person of brother of the informant and applicant No.4 - Lakan Dattarao Chavan had gave a blow of stick on his head and caused injury to him. The medical certificate of said Nitesh Rathod is placed on record for perusal which shows that he has sustained the simple injuries and already discharged from the hospital. The role of attributing the injuries by the iron rod and wooden stick is assigned to the other co-accused namely Santosh Chavan and Namdeo Dattarao Chavan.

9. Considering that only allegation against applicant No.1 that she thrown the chilly powder and no allegations against applicant Nos.2 and 3. They can be protected by granting anticipatory bail as there custodial interrogation is not required. The allegation against applicant No.4 is that he has used stick which is already recovered. From the investigation papers it reveals that the injured Nitesh whom applicant No.4 has given blow and who has sustained the simple injury, is discharged from the hospital.

10. Considering that the incriminating weapons are already recovered. Injured is discharged from the

hospital. Custodial interrogation of applicant No.4 is also not required, and therefore, he can also be protected by granting anticipatory bail. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicants namely 1) Sapana Akash Rathod, 2) Vandana Dattarao Chavan, 3) Satish Santosh Chavan and 4) Lakhan Dattarao Chavan in Crime No.386/2023 registered with Police Station Khandala, District Yavatmal, for offences punishable under Sections 143, 147, 148, 323, 324, 326, 504 and 506 read with Section 149 of the Indian Penal Code, be released on anticipatory bail on furnishing PR Bond in the sum of Rs.20,000/- each with one surety each in the like amount.

(iii) The applicants shall attend the concerned police station as and when called by the Investigating Officer for the investigation purpose.

(iv) The applicants shall not involve in similar type of offence.

(v) The applicants shall furnish their Cell phone number and address with address proof before the Investigating Officer.

(vi) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(vii) Single incident of tampering of the witnesses would result into cancellation of bail.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*