



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 687 OF 2024

1. KAILAS S/O MAHADEV AVAAD
2. MAHADEV S/O BHIVAJI AVAAD
3. KAIKAI W/O MAHADEV AVAAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Kanade Angad Lala
APP for Respondents/State : Mr. Amar V. Lavte

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CORAM : SHAILESH P. BRAHME, J.
{ VACATION COURT }

DATE : 31st MAY 2024.

Per Court :

. Heard learned Counsel for the applicants and learned APP for respondents/State.

2. When I express disinclination to grant any relief to applicant no.1/Kailas Mahadev Avaad, learned Counsel for the applicants sought permission to withdraw application to his extent. Anticipatory Bail Application is dismissed as withdrawn to the extent of applicant no.1.

3. Applicants are apprehending their arrest in furtherance of offence bearing Crime No.0040/2024 registered with Dindurd Police Station, District Beed for the offences punishable under Sections 326, 327, 504, 143, 148, 149 of the Indian Penal Code.

4. It is alleged that applicant no.1/Kailas assaulted informant with axe and applicant no.2/Mahadev with iron rod on the shoulder on 16.03.2024. It is further alleged that applicant no.3/ Kaikai @ Kaushalyabai snatched golden locket and cash of Rs.3000/-. The controversy which triggered into F.I.R. is that the application is made on 26.12.2023 by applicant no.1 for cleaning garbage from the adjoining land. While they were cleaning dumped garbage, land owner came there and interrupted the work.

5. Learned Counsel for the applicants submits that applicant no.2 is 80 years and applicant no.3 is 75 years old. The allegations are not serious in nature and premeditated. He would further submit that present FIR is a counterblast to FIR No.39/2024 lodged on 16.03.2024 by applicant no.1 against informant and others. The accused in that offence have been granted pre-arrest protection.

6. Learned APP repels the submissions of learned Counsel for the applicant by producing on record the papers. It is being pointed out that one Machchindra is the eye-witness to the incident. Further witnesses Onkar and Mahesh corroborate FIR. They are independent witnesses. There is incriminating role played by applicant no.2 and 3. He would point out injury certificate of a private hospital indicating grievous injury of dislocation of right shoulder of the informant.

7. I have considered both the First Information Reports, statements and the medical certificate. Applicant no.1 is said to have inflicted injury by axe. Applicant no.2 has used iron rod for causing dislocation of right shoulder of the informant. So far as applicant no.3 is concerned, there is nothing incriminating except her presence at the instance. Considering her age, she is entitled for pre-arrest protection.

8. The statement of Machchindra discloses that applicant no.2 inflicted injury by iron rod on the shoulder. Witnesses Onkar and Mahesh are not the eye-witnesses giving direct account of the incident in question, albeit independent witnesses. Injury inflicted by the applicant no.2 is grievous in nature but it is on the right shoulder. Applicant no.2 is 80 years old. Prima facie, incident in question cannot be said to be premeditated one. I am therefore inclined to allow application for applicant no.2 and 3.

9.(i) Anticipatory Bail Application is allowed to the extent of Applicant No.2/Mahadev and Applicant No.3/Kaikai.

(ii) In the event of their arrest in furtherance of offence bearing Crime No.0040/ 2024 registered with Dindurd Police Station, District Beed, Applicant No.2/Mahadev and Applicant No.3/Kaikai shall be released on bail on furnishing P.R. bond of Rs.15000/- (Rupees Fifteen Thousands) each with one solvent surety in the like amount.

(iii) They shall co-operate with the Investigating Officer and report to the concerned police station as and when called by the Investigation Officer.

SHAILESH P. BRAHME
JUDGE

NaJeeb...