

ORDER BELOW EXH.01
(Passed on 06/06/2023)

Applicants Mahendra Dnyaneshwar Mhalunge, Sunil Prakash Wadverao, Tanaji Santu Mohol, Sanjay Chandrakant Bhagat and Nilesh Bhausahab Satpute, who are arrayed as accused in Crime no. 114/2023 registered on 13/05/2023 at Police Station Kothrud under Sections 143, 147, 149, 327, 323, 427, 504 and 506 of the Indian Penal Code and Sections 37(1) r/w Sec. 135 of Maharashtra Police Act, have filed this application under Section 438 of the Code of Criminal Procedure, seeking relief of pre-arrest bail.

2) Dr. Ganesh Balbhimrao Pokale, Registrar of MIT Vishwashanti University was called on his mobile by Jt. Registrar Laxman Badime in the night hours of 01/01/2023 and informed that some employees of the University were standing outside the University gate and were doing something. To ascertain this fact, he called University officers and went at the place of the incident. He found that Mahendra Dnyaneshwar Mhalunge, Sunil Prakash Wadverao, Tanaji Santu Mohol, Sanjay Chandrakant Bhagat and Nilesh Bhausahab Satpute were standing by the road with unknown 3-4 persons. It was learnt that they fixed labour union board there. When the inspection of the board was going on, driver Ganpat Munde came there, Mahendra Mhalunge snatched his Samsung mobile. Sunil Wadverao took that mobile from Mahendra Mhalunge and threw it on the road. Sunil pounced at Tukaram, abused him and threatened to kill him. Tanaji Mohol also did the same. Sunil and Tanaji followed Tukaram. Sanjay Bhagat picked up Tukaram's phone

and banged it against the compound wall. Tanaji Mohol again threw mobile on the road twice. They all went away by hurling filthy abuses.

3) Above incident was narrated by informant Ganesh to police and crime came to be registered.

4) The applicants are seeking relief of pre-arrest bail on the grounds mentioned in the application.

5) The application is opposed by the State by submitted say. According to the prosecution, the original mobile is yet to be seized from the accused.

6) Learned advocate S.H. Nimbalkar assisted the prosecution and submitted various documents in support of the prosecution. He also filed written notes of arguments.

7) Heard learned advocate for the applicants. He submitted that except Section 327 of the Indian Penal Code, all the other offences are bailable. Custodial interrogation of the applicants is not needed. He placed some documents on record and submitted that permission was sought from the police to fix the union board. He further submitted that in pursuance of notice issued under Section 41 of the Code of Criminal Procedure, all the applicants presented themselves before the I.O. and co-operated the police. He finally submitted that the application be allowed.

8) Learned APP, in presence of I.O., submitted that as per police report mobile is yet to be seized. Hence, the relief be rejected. He placed investigation papers on record. I.O. submitted that by way of seizure panchanama dated 17/05/2023 one mobile is seized from Sunil Wadverao but it is in broken condition.

9) Learned advocate Shri Nimbalkar, who assisted the prosecution, submitted that during the pendency of the application, the applicants gathered outside the University and tried to create terror by hurling slogans. He further submitted that complaint in this regard is submitted at Kothrud Police Station on 06/05/2023. He further submitted that all the applicants are suspended. He further submitted that the applicants used the University's logo illegally on its board. He finally submitted that if the applicants are released on pre-arrest bail they will not co-operate the investigation machinery.

10) The investigation papers indicate that in pursuance of notices issued under Section 41 of the Code of Criminal Procedure all the applicants appeared before the I.O. and co-operated the investigation machinery during the interrogation. The mobile phone, which is allegedly broken by one of the applicants, is seized by the police. Now, by taking the applicants in physical custody, nothing is to be seized, recovered or discovered at their instances. All the Sections levelled against them, except Section 327 of the IPC, are bailable. Section 327 of the IPC relates to voluntary causing hurt to extort property, or to constrain to an illegal act. The entire FIR does not indicate that any of the applicants caused hurt to anybody.

11) The incident appears to be dispute between the employer and employee. Keeping all above things in mind, this court is of the firm view that if the applicants are arrested on the basis of the crime registered against them their liberty will be curtailed and they will face harassment. The applicants are entitled to get relief of pre-arrest bail with conditions. In the result, following order is passed.

ORDER

1. Application is allowed.
2. In the event of arrest, the applicants be released on pre-arrest bail subject to execution of personal bond of Rs. 15,000/- each with surety in the like amount.
3. They shall not indulge in any criminal activity and breach the peace at University premises.
4. They shall not threat the witnesses, directly or indirectly.
5. They shall appear before the Investigating Officer, as and when called and co-operate the Investigating Officer during the interrogation.
6. They shall comply as per Chapter 1 Para 12 of the Criminal Manual.

Pune.

Date : 06/06/2023

(D. V. Kashyap)

Addl. Sessions Judge, Pune.