

Order Below Exh. 1 In Cri. Bail Application No. 57/2022
(CNR No.MHNS010001682022)

Rohit Balasaheb Kathe & others Vs. State.

Heard- Ld. Adv. Mr. R. J. Kasliwal for the applicants.
Ld. A.P.P. Ms. S. S. Sangle for the State.

1. This is an application under section 438 of Criminal Procedure Code in Crime No. 12/2022 registered at Panchavati Police Station, Nashik for the offence under sections 354, 323, 504, 506 & r/w 34 of the Indian Penal Code, 1860. It is the case of prosecution in brief that the accused/applicants were carrying out construction work on their premises when the complainant got irritated by the dust and asked them to stop. However, instead of stopping, the applicants along with the co-accused molested her by twisting her finger and by pressing her breast.

2. Ld. Adv. for the applicants has submitted that the FIR is nothing but a gross misuse and abuse of the provisions of law, in as much as it is indeed the complainant who is the aggressor/assailant. He has placed on record a C.D. of the incident to show what had actually transpired. The said video clearly shows that the complainant was not only mouthing the choicest abuses on the accused, but was also physically assaulting them with a stick. Custodial interrogation of the applicants is not necessary. Applicants have complied with the terms and conditions imposed by the Court.

3. Per contra, Ld. A.P.P. has opposed the application on the ground that custodial interrogation of the applicants is necessary.

4. I have watched the said video in open Court which does, *prima-facie*, lend credence to the submissions made by the Ld. Adv. for the applicants. Applicants have complied with the terms and conditions imposed by the Court. No recovery needs to be made from them. Custodial interrogation of the applicants does not appear to be necessary. In view thereof, I am inclined to allow the application subject to the following terms and conditions.

ORDER

- 1) The application is allowed.
- 2) Interim order dated 13/01/2022 passed below Exh. 4 is hereby confirmed on the same terms and conditions.

20/01/2022
Nashik

Mridula Bhatia
District Judge-2 and
Addl. Sessions Judge, Nashik