

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.371 OF 2020

- 1) Ravindra s/o Uttam Patil
(Jaiswar), Age: 50 Yrs.
Occ. Agril. r/o Kankrala,
Tq. Soegaon, Dist.Aurangabad.
- 2) Sagar s/o Ravindra Patil
(Jaiswar), Age: 23 Yrs.,
occ. Education, r/o Kankrala,
Tq. Soegaon, Dist.Aurangabad. = **APPLICANTS**

VERSUS

The State of Maharashtra,
Through P.I. Soegaon Police Station,
Soegaon, Tq. Soegaon,
District Aurangabad. = **RESPONDENT/S**

Mr.RV Gore, Advocate for Applicants;
Mr.AM Phule,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 16th December, 2020.

PER COURT:-

1. Present application has been filed, under Section 438 of Cr.P.C., by the applicants-accused, apprehending their arrest in connection with CR No. 28/2020 dated 12.3.2020, registered with Soegaon Police Station, Tq. Soegaon, District Aurangabad, for the offences punishable under Sections 353, 332, 504, 506 read with 34 of IPC.

2. Heard learned Advocate and learned APP for respective parties.

3. Learned Advocate for the applicants submitted that the FIR lodged against them is prompted with political motive at the behest of their rival group. Applicant No.2 is Bachelor of Science. He is a student, who has been falsely implicated, as his father, i.e. applicant No.1, is active in politics. He had nothing to do with the subject on which it is alleged that applicant No.1 started the dispute with the informant. Physical custody of the applicants is not required for the purpose of investigation and, therefore, the learned Advocate for the applicants prayed that they be released on anticipatory bail.

4. Per contra, learned APP strongly opposed the application and submitted that the informant is Gramsevak, who was discharging his duties on the date of the incident and unnecessarily quarrel was raised by both the applicants with him by saying as to why he has not withdrawn the amount from MLA fund. They had assaulted the informant and, therefore, the informant was refereed to the medical examination. There were two injuries on his person. One is lacerated wound – flexar aspect of right hand at wrist joint and another is Blunt trauma to Head and Ear. Though both the injuries are simple in nature; yet they are sufficient to show that force was applied against the informant. Statements of witnesses have also been recorded, including the persons in the neighborhood. It was also submitted that applicant No.1 has criminal antecedents. He is involved in CR No.160/2017

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registered for the offences punishable under Section 363 of IPC. Learned APP further submitted that possibility of tampering with the evidence of the prosecution cannot be ruled out and, therefore, he opposed the application.

5. At the outset, it is to be noted that, the assault is stated to be made with the fists and kick blows, which does not require physical custody of the present applicants. The informant is Gramsevak and submits that he was present in his office at about 9.15 am on 12.3.2020. He was along with three persons when the present applicants entered the office and asked as to why he is not withdrawing the amount received for construction of Assembly/Meeting hall from MLA fund. They abused him and spoke arrogantly. Threat was given as to how he would stay in their house. Thereafter, he tried to submit that he would ask Sarpanch, Up-Sarpanch and members for the MLA fund and he would take further action. Thereafter, applicant No.1 caught hold of his neck and then applicant No.2 assaulted him by kicks and fists and manhandled him. After giving him threat to kill, he was pushed, as a result of which, he sustained abrasions to his right hand. It is to be noted that from the FIR, it cannot be spelt as to what was the connection between the work of Assembly/Meeting hall and the applicants and why they were asking for the amount from MLA fund. Witness Shivdas Rajput, whose name has been taken in the FIR, in his statement under Section 161 of

Cr.P.C., has stated that when he was sitting in front of the informant, at that time, applicant No.1 came and started abusing the informant. Applicant No.1 was saying as to why he is not giving the remaining amount in respect of Assembly/Meeting hall. Thereafter, the informant told him that he should complete the work of colouring, installing flex and thereafter he would issue cheque. Thereafter, applicant No.1 started assaulting the informant; torn his shirt's pocket. They were separated by the witness and others and then he says that while going, applicant No.2 gave kick to the informant and abused him. So he has different story to tell; so also, the reason behind the alleged act and connecting the MLA fund to the alleged statement in the FIR. Witness Hiralal Thakre, whose name is also taken in the FIR, has also stated the same story as told by Witness Shivdas Rajput. Statement of witness Ramesh Chavan would show that, in fact, he had carried out the said work of the Assembly/Meeting hall, which was completed about two years ago. But, he had received some amount through cheque issued by the informant. According to this witness, the work is still incomplete. When the remaining amount was asked by him to the informant, the informant told that the remaining work be done. He had then contacted applicant No.1 and stated that he should help him in getting the said amount from the Grampanchayat. Thus, it can be seen that there is a political angle to the allegations.

6. Taking into consideration the contents of the FIR, physical custody of the applicants is not required to recover anything. As regards accused No.1 is concerned, he appears to be involved in offence under Section 363 of IPC. But, that cannot be the only ground, on which the bail can be rejected. Under such circumstance, the application deserves to be allowed, however, with stringent conditions. Hence, following order, -

ORDER

- i. The Application stands allowed;
- ii. In the event of arrest of the applicants in in connection with CR No. 28/2020 dated 12.3.2020, registered with Soegaon Police Station, Tq. Soegaon, District Aurangabad, for the offences punishable under Sections 353, 332, 504, 506 read with 34 of IPC, they be released on PR and SB of Rs.15,000/- each.
- iii. The applicants shall not tamper with the evidence of the prosecution in any manner.
- iv. They shall not indulge in any criminal activity. If any such criminal activity is reported, then the bail granted to them may be liable to be cancelled.
- v. The applicants shall attend the

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concerned Police Station on every
Saturday between 10.00 AM to 2.00 PM till
filing of charge sheet.

(SMT. VIBHA KANKANWADI,J.)

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