

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.762 OF 2020
WITH
CRIMINAL APPLICATION NO.1679 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.762 OF 2020

- | | | |
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| 1. | Renuka Shriram Gadhri | |
| 2. | Manisha @ Vanita Yogesh Gadhri | ... Applicants |

Versus

The State of Maharashtra	... Respondent
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Mr. N. L. Choudhari, Advocate for applicants.
Mrs. Vaishali Patil – Jadhav, APP for respondent – State.
Mr. S. S. Laddha, Advocate for informant.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd October, 2020

ORDER :

1. Criminal Application No.1679 of 2020 has been filed by the original informant for intervention in Anticipatory Bail Application No.762 of 2020. Accordingly, it stands allowed and disposed of.

2. Anticipatory Bail Application No.762 of 2020 has been filed by the present applicants under Section 438 of the Code of Criminal Procedure. The applicants are apprehending their arrest in connection with Crime No.207 of

2020 registered with Shillegaon Police Station, Tq. Gangapur, Dist. Aurangabad for the offences punishable under Sections 306, 323, 504, 452 read with Section 34 of Indian Penal Code.

3. Heard learned Advocate for the applicant and learned APP assisted by Mr. S. S. Laddha for respondent – State.

4. It has been vehemently submitted by the learned Advocate for the applicants that the deceased - Ganesh was the real maternal uncle of the applicants. He was residing separately from the applicants since many years. So also, the present applicants are residing separately in different villages since the date of their marriage. Shashikala Sheshrao Badoge is the mother of the present applicants. Shashikala is the sister of deceased. There was ancestral property belonging to the father of the deceased and Shashikala. Since last 3 years, there is civil dispute going on between Shashikala and her brother. Informant is the brother of deceased. It is stated that Ganesh is separately cultivating the land which has gone to his share. Shashikala had obstructed Ganesh on 23-07-2020 from cultivating the land and, therefore, there was dispute. But then the informant says that at about 8.30 a.m. on 24-07-2020, when informant along with his wife were at home, at that time, Shashikala with present applicants went to his house. It is the allegation that all the accused persons assaulted informant - Santosh by fist and kick blows and Shashikala used stick. His brother Ganesh and Laxmibai had come out of their house and they were also

abused and assaulted. The said dispute was going on for about half an hour. Many people had gathered and then informant says that Ganesh got fed up with the quarrel and he went inside the house and consumed insecticide. Learned Advocate for the applicants submitted that, at the most, the presence of the applicants has been stated and it is stated that they had assaulted by fist and kick blows. There was no dispute directly between the applicants and the informant and his brother. Acts of instigation have not been stated and under such circumstance, the physical custody of the applicants is not at all required for the purpose of investigation.

5. Learned APP assisted by learned Advocate Mr. S. S. Laddha strongly opposed the application by submitting that only because of the dispute that was created by Shashikala and present applicants, Ganesh got fed up. It amounts to instigation that the quarrel was carried forward for a period of half an hour. It appears that he felt defamed, as he was assaulted in presence of people. The physical custody of the applicants is definitely required.

6. As already the contents of the FIR have been reflected in the above paragraphs, they are not reproduced. The FIR does not contain active part specifically pointing out the instigation. Merely because the dispute was going on for about half an hour, that does not mean or cannot be equated to instigation as contemplated under Section 107 read with Section 306 of Indian Penal Code. *Prima facie*, the said case has not been made out and, therefore, the physical

custody of the applicants is not required. The application deserves to be allowed. Hence, the following order :-

ORDER

- I) The Anticipatory Bail Application No.762 of 2020 stands allowed.
- II) The order passed by this Court on 10-09-2020 regarding interim protection stands confirmed. In other words, in the event of arrest of applicants viz.(i) Renuka Shriram Gadhri; and (ii) Manisha @ Vanita Yogesh Gadhri in connection with Crime No.207 of 2020 registered with Shillegaon Police Station, Tq. Gangapur, Dist. Aurangabad dated 25-07-2020 for the offences punishable under Sections 306, 323, 504, 452 read with Section 34 of Indian Penal Code, they be released on P. R. and S.B. of Rs.15,000/- each, if not already released.
- III) The applicants shall not tamper with the evidence of the prosecution in any manner.
- IV) The applicants shall remain present before the Investigating Officer on every Saturday between 10.00 a.m. to 2.00 p.m. till filing of charge sheet.
- V) The applicants should cooperate with the investigation.

[SMT. VIBHA KANKANWADI, J.]

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