

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

942 ANTICIPATORY BAIL APPLICATION NO. 794 OF 2020

Mahadev S/o. Tukaram Waybase,
Age. 30 years, Occ. Defense Service,
R/o. Namewadi, Tq. Kaij, Dist. Beed.

...Applicant.

Versus

The State of Maharashtra.

...Respondent.

Advocate for Applicant : Mr. V.M. Chate.
APP for Respondent : Mr. V.M. Kagne.

**CORAM : MANGESH S. PATIL, J.
DATE : 05.11.2020**

Per Court :

This is an application under Section 438 of the Code of Criminal Procedure. As the applicant is apprehending his arrest in connection with FIR No. 308/2020, registered with Kaij Police Station, District Beed, for the offences punishable under Sections 308, 326, 143, 147, 148, 149, 323 and 504 of I.P.C.

2. Shortly stated the allegations as can be discerned from the FIR are to the effect that the applicant was annoyed with the informant since his wife had sent a friend request on the Facebook. On 07.08.2020, when the informant was sitting in front of a temple, all the accused including the

applicant arrived there, abused him on the same count and then applicant assaulted him with a stick causing him fracture to the left hand, apart from few other injuries. The FIR was lodged on 10.08.2020 and crime was registered.

3. Learned Advocate Mr. Chate for the applicant submits that the applicant is a military man, serving in Jammu and Kashmir. He is being falsely implicated by lodging the FIR with the concocted version. He would point out that already the sister of the applicant had implicated the informant against whom she lodged a Non Cognizable Report on 06.08.2020. He would then submit that since no deadly or dangerous weapon was used, there is serious doubt if provision of Section 326 of the Indian Penal Code would be attracted. He submits that the applicant would stand to lose his job if he is allowed to be arrested and may be granted bail subject to any condition.

4. Learned APP opposes the application. He submits that the offence is serious. There is an injury certificate showing that the informant did sustain fracture to the left forearm which is a grievous injury. Custodial interrogation of the applicant is necessary. The stick is to be recovered and the application may be rejected.

5. As can be seen, though there is some delay in lodging the FIR, perhaps it can be explained by the fact that the informant had sustained a fracture injury and was shifted to the Government Hospital at Ambejogai. The fact remains that the injury certificate of that hospital clearly shows that he had sustained a fracture to the left forearm, which fact clearly corroborates the allegations in the FIR.

6. Needless to state that it is a grievous injury caused by a stick. The stick is to be recovered. Besides it is a matter of formation of an unlawful assembly with the object of assaulting the informant on account of a previous dispute. There was a motive and there is enough material to reveal involvement of the applicant in commission of the crime. His custodial interrogation is necessary.

7. Application is rejected.

(MANGESH S. PATIL, J.)