

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

ANTICIPATORY BAIL APPLICATION NO. 875 OF 2020

- 1) Savita w/o Govind Ghule,
Age 22 years, Occ. Housewife,
Tq. Takali Tq. Kaij, Dist. Beed.
- 2) Surekha w/o Balu Toge,
Age 30 years, Occ. Housewife,
R/o. Chikhal, Tq. Wadwani,
Dist. Beed.
- 3) Sudhamati w/o Narayan Toge,
Age 42 years, Occ. Housewife,
R/o. Chikhal, Tq. Wadwani,
Dist. Beed.
- 4) Nandubai w/o Sominath Toge,
Age 22 years, Occ. Housewife,
R/o. Chikhal, Tq. Wadwani,
Dist. Beed.

... **Applicants.**

VERSUS.

The State of Maharashtra,
Through Police Inspector Police
Station, Kaij Tq. Kaij & Dist.
Beed.

... **Respondent.**

Advocate for the Applicants : Mr. Kishor D. Khade.

APP for the Respondent : Mr. V. M. Kagne.

Advocate for Assist to APP : Mr. Karad, h/f Mr. A.V. Thombre, Advocate.

CORAM : MANGESH S. PATIL, J.

DATE : 03/11/2020

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure by four women accused from Crime No. 323/2020, registered with Kaij Police Station District Beed for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code.

2. In sum and substance the allegations are to the effect that the applicant No. 1 is the widow of a predeceased son of the informant. Her five year old girl was in his custody pursuant to an order of a Court. With a view to take the girl forcibly, all the accused including the present applicants went to his house on 22.08.2020 and insisted for taking away the girl. When the informant opposed he was assaulted by the accused persons with an axe. When his son Namdeo tried to intervene even he was assaulted. The allegations against the applicants are to the effect that when the women folk from the informant's family tried to intervene these women assaulted them with kicks and fists.

3. The learned advocate for the applicants submits that the applicants are being falsely implicated. In fact, the mother of the applicant No. 1 was assaulted and sustained a fracture. A separate crime is registered in that respect. The applicants are women. The allegations are primarily against the other accused. As far as the applicants are concerned there is no allegation about they having used any weapon. Already the main accused have been arrested and released on regular bail. That must have provided sufficient opportunity to the Investigating Officer to complete the investigation. Nothing is to be recovered from and discovered by the applicants. They are ready to cooperate the Investigating Officer and may be granted anticipatory bail.

4. The learned A.P.P. duly assisted by the learned advocate Mr. Karad, h/f Mr. Thombre for the original informant strongly oppose the application. They submit that one of the injuries sustained by the informant is grievous. He sustained a cerebral depressed fracture. His wife and son have also sustained injuries. The girl was in the custody of the informant and his family. There was no reason why the accused persons in so many numbers should have gone to the place. There was predetermination. They were carrying weapons. The offence is serious and still under investigation. Therefore the application may be rejected.

5. I have carefully gone through the papers of investigation. It is a matter of record that the allegations as regards use of weapons is attributable to some other accused and not the present applicants. The main accused have already been arrested and granted regular bail. Obviously, the Investigating Officer must have had sufficient opportunity to interrogate them and discover the weapons.

6. The applicants are women. The applicant No. 1 in fact is the mother of the girl aged five years. She must be highly interested in having the custody of the child. If in the process the other accused have exceeded the limits, the applicants cannot be allowed to be sent to jail. *Prima facie* their custodial interrogation does not seem to be imperative. It would be enough to bind them with certain conditions.

8. The application is allowed.

9. In the event of arrest of applicants in connection with Crime No. 323/2020, registered with Kaij Police Station District Beed for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code they shall be released on bail on their executing personal recognizance for an amount of Rs. 15,000/- each and furnishing a solvent surety in the like amount each subject to the conditions :

(a) They shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate him.

(b) They shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

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