

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**ANTICIPATORY BAIL APPLICATION NO.910 OF 2020**

Premdas s/o Laxman Rathod,  
Age 35 years, Occupation Labour,  
R/o Nandu Naik Tanda, Post  
Risangaon Tq. Loha Dist. Nanded.

**...Applicant**

**VERSUS**

1) The State of Maharashtra,  
Through Police Inspector,  
Police Station, malakoli,  
Tq. Loha Dist. Nanded.

2) The Superintendent of Police,  
Nanded.

**...Respondent**

.....  
Advocate for Applicant : Mr. S. B. Patil.  
APP for Respondent : Mr. Y. G. Gujarati.

.....

**CORAM : SMT.VIBHA KANKANWADI, J.**  
**DATE : 20-10-2020.**

**ORDER :**

1) Present applicant who is accused No.1 is apprehending his arrest in connection with Crime No.53 of 2020, dated 08-03-2020, registered with Malakoli Police Station Tq. Loha Dist. Nanded for the offence punishable under Section 353, 332, 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code.

2) Heard learned Advocate Mr. S. B. Patil for the applicant and learned Additional Public Prosecutor Mr. Y. G. Gujarati for respondent-State.

3) It has been vehemently submitted on behalf of the applicant that, the present complaint has been filed at the instigation of one Jyoti Vijay Rathod who is the wife of brother of the applicant. There is matrimonial dispute between Jyoti and Vijay to which the present applicant has no concern at all. No such incident as narrated has taken place. The application for anticipatory bail was granted to applicants No.2 to 7 who were along with the present applicant by the learned Additional Sessions Judge, Kandhar in Miscellaneous Criminal Bail Application No.56 of 2020, however the prayer for bail by this applicant was rejected. Now the custody of the present applicant is not at all required. Investigation is almost complete. The spot panchanama was prepared. Statements of the witnesses have also been recorded. The weapon like stone which was allegedly used in the commission of the crime is also recovered at the time of spot panchanama. Therefore, when the custody of the applicant is not required, his application deserves to be allowed.

4) Per contra, the learned Additional Public Prosecutor strongly

opposed the application and submitted that, the First Information Report has been lodged by Police Head Constable attached to Palam Police Station Dist. Parbhani. In a Criminal Application under Section 97 of the Code of Criminal Procedure, learned Judicial Magistrate, First Class, Palam had issued search warrant for search of son by name Aryan Viajy Rathod, aged 4 years 8 months. In connection with taking custody of the child, the police party along with mother of the child Jyoti, her father went to Nandu Naik Tanda. The police persons had explained about the warrant and asked the accused persons who were present there to give the custody of the child to them. They were resisted by present applicant, father of the child Vijay and Sagarbai who is the wife of present applicant. Vijay had assaulted Jyoti with the help of stone, as a result of which she sustained grievous injury. The police officers were abused and assaulted. Present applicant had assaulted father of Jyoti by stick on his head. When the applicant can resist the legal procedure, he deserves no sympathy.

5) At the outset, it is to be noted that, the First Information Report is given by the police officer on duty. He had gone with the warrant to take the custody of the child. Under such circumstance,

the police party ought not to have been resisted. Even though the First Information Report shows the allegation that present applicant had assaulted father of Jyoti, yet it is coupled with the altercations and resistance offered by the present applicant. There was no enmity between the present applicant and the informant. The First Information Report shows that, Jyoty's husband had assaulted her and caused her grievous injury and, therefore, when *prima facie* case is made out and it is coupled with the contemplated recovery of stick, alleged used in the commission of the crime by the present applicant, he deserves no sympathy. Hence, application stands rejected.

**(SMT. VIBHA KANKANWADI)**  
**JUDGE**

*vjg/-*