

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

914 ANTICIPATORY BAIL APPLICATION NO. 939 OF 2020

Hanumant Raosaheb Humbe,
Age. 33 years, Occ. Agriculture,
R/o. Pandharewadi, Tq. Bhoom,
Dist. Osmanabad.

...Applicant.

Versus

1. The State of Maharashtra.
2. The In-charge Investigation Officer,
Police Station Washi, Dist. Osmanabad.

...Respondent.

Advocate for Applicant : Mr. V.S. Undre.
APP for Respondent : Mr. V.M. Kagne.

CORAM : MANGESH S. PATIL, J.
DATE : 26.11.2020

Per Court :

This is an application under Section 438 of the Code of Criminal Procedure, by one of the accused from Crime No. 120/2020, registered with Washi Police Station, District Osmanabad, for the offence punishable under Sections 143, 147, 148, 149, 307, 323, 504, 506 of Indian Penal Code and Section 25 (3), 25 (4) of Arms Act and Section 135 of Bombay Police Act.

2. In substance, the allegations are to the effect that on account of a

dispute touching land, all the accused persons formed an unlawful assembly with the object of assaulting the informant and his family members. They arrived at the scene, armed with deadly weapons like Pistols, Swords, etc. and assaulted the informant. As far as applicant is concerned, it is alleged that he was carrying a sword and injured Sharad on the head.

3. The learned Advocate for the applicant submits that though the offence is made to be believed to be a serious one, no serious injuries were caused to anybody. Though the accused persons are being attributed with carrying deadly weapons and the weapons have been recovered except a sword, no serious injuries were inflicted with this weapon. The women have already been granted anticipatory bail by this Court. The other accused have been granted regular bail. The applicant is ready to cooperate the Investigating Officer and may be granted anticipatory bail.

4. Learned APP opposes the application. He submits that the offence is serious. There is a specific statement of the injured Sharad about the applicant having assaulted him on head with a sword though the injury on the head i.e. occipital region is turned out to be simple, no conclusion can be drawn at this juncture. The sword is to be recovered. There is direct

involvement of the applicant in commission of the crime. It is a matter of formation of unlawful assembly which was carrying deadly weapons and the application be rejected.

5. I have carefully gone through the papers. Though the FIR reads that the applicant has assaulted Sharad on head with a sword, the injury certificate shows that Sharad has sustained only one injury in the form of contused lacerated wound on the occipital region which is stated to be simple and caused by hard and blunt object. However in the statement of Sharad recorded under Section 161 of Cr.P.C. he has stated that the applicant had hit him on the back of his head with a sword. But there is no injury sustained by him on the back of head as can be seen from the injury certificate. Besides, even a statement of Sharad has been recorded under Section 164 of the Cr.P.C. however except stating that which of the accused was carrying what weapon he has not stated about he having been physical harmed. He has simply stated that the applicant was carrying a sword but has not stated about he having been hit with the sword.

6. Considering all these aspects, the application deserves to be allowed. The application is allowed.

7. In the event of arrest of the applicant in connection with Crime No. 120/2020, registered with Washi Police Station, District Osmanabad, he shall be released on bail on furnishing Personal Recognizance for an amount of Rs. 20,000/- (Rupees twenty thousand) and a surety in the like amount subject to following conditions :

(a) He shall attend the concerned Police Station on 01.12.2020 and 04.12.2020 between 09:00 a.m. and 11:00 a.m. and shall cooperate the Investigating Officer.

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

(MANGESH S. PATIL, J.)