

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 ANTICIPATORY BAIL APPLICATION NO.1063 OF 2020
WITH
CRIMINAL APPLICATION NO.2180 OF 2020

SHANTABAI W/O BHIMRAO MUNDHE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

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Mr. N.L. Jadhav, Advocate for applicants

Mr. V.P. Sawant, Advocate for assist to PP

Mr. V.S. Badakh, APP for respondents/State

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 14th DECEMBER, 2020

ORDER :

1 Criminal Application No.2180 of 2020 moved for assist to PP is allowed.

2 Anticipatory Bail Application No.1063 of 2020 has been filed for pre-arrest bail, as the applicants are apprehending their arrest in connection with Crime No.403/2020 registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 302, 307, 323, 504 read with Section 34 of the Indian Penal Code.

3 Heard learned Advocate Mr. N.L. Jadhav for applicants and
learned APP Mr. V.S. Badakh for State.

4 It has been vehemently submitted on behalf of the applicants
that the applicants are innocent ladies. Applicant No.1 is 68 years old lady
and has been implicated just as she is the relative of the accused No.2. Main
allegations are against accused Nos.1 and 2. Further, the incident is alleged
to have taken place on 10.09.2020; yet, the FIR came to be lodged on
23.09.2020, that is, after inordinate delay of 13 days, which has not been
explained. It is also seen that there is land dispute pending between two
families. Even if FIR is accepted as it is for the sake of argument, the
allegations against the present applicant Nos.1 and 2 are abusing and beating
by kicks and blows, therefore, their physical custody is absolutely not
required.

5 Learned APP strongly opposed the application by saying that
serious offence has been committed, as a result of common intention on the
part of the present applicants with the accused Nos.1 and 2. Further, though
initially offence was registered under Section 307 of the Indian Penal Code;
yet later on the husband of the informant has succumbed to the injuries, and
therefore, offence under Section 302 of the Indian Penal Code has been
added. Releasing the applicants, merely on the ground that they are women,

will hamper the investigation. Further, they are from the same village, possibility of tampering cannot be ruled out.

6 It is to be noted that the FIR has been lodged by one Chandrakalabai Janardhan Mundhe on 23.09.2020, that she had gone for the 13th day rituals of her father at Wakulni Bhaygavhan, Tq. Ambad on 10.09.2020. Her husband Janardhan, daughter-in-law Anita and another son Ramesh were at home. When she returned at about 8.00 p.m. she found her husband in unconscious state. Her daughter-in-law informed that Janardhan had taken two ox and grand daughter Shruti outside and they were returning at about 6.00 p.m.. They were intercepted in Gat No.367 by the accused persons including the present applicants and they started raising as to why they are using that road, which is in fact, their land. Thereafter, on the dispute in respect of said road it is stated that Bhimrao and Bhagwat assaulted Janardhan by means of sticks on his head, back and chest. Present applicants abused and given kick blows to Janardhan. Thereafter, the informant took Janardhan to Gondi Police Station. Police referred him to Government Hospital, Ambad. Treatment was given and thereafter they had brought Janardhan back to Dongaon. Thereafter, he was uncomfortable, and therefore, he was taken to Narale Hospital at Pachod. After getting treatment there he was shifted to Dunakhe Hospital, Aurangabad. It is stated that he

was unconscious on the date of FIR and thereafter she lodged the FIR with Gondi Police Station.

7 Taking note of the contents of the FIR, it can be seen that the role attributed to the present applicants by the informant on the basis of information supplied by her daughter-in-law is limited to the extent of abusing and assault by kicks and blows. Therefore, the physical custody of the applicants cannot be said to be required for the purpose of any kind of discovery. Hence, following order.

ORDER

1 Both the applications stand allowed.

2 The order passed by learned Additional Sessions Judge-5, Jalna in Criminal Bail Application No.1451 of 2020 dated 27.11.2020 is hereby set aside. Said application stands allowed.

3 The ad-interim protection, granted by this Court earlier to applicants vide order dated 10.11.2020, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicants viz. Shantabai Bhimrao Mundhe and Mandabai Mahadeo Thore, in connection with Crime No.403/2020 dated 23.09.2020 registered with Gondi Police Station, Dist. Jalna, for the offence

punishable under Section 302, 307, 323, 504 read with Section 34 of the Indian Penal Code, they be released on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each.

4 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner and cooperate with the investigation.

5 Both the applications accordingly disposed of.

(Smt. Vibha Kankanwadi, J.)

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