

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

937 ANTICIPATORY BAIL APPLICATION NO.1094 OF 2020

1. Vilas S/o Waman Veer
Age : 48 years, Occ : Teacher,
R/o at Post Pali,
Tq. And Dist. Beed.
2. Asha W/o Vilas Veer
Age : 43 years, Occ : Household,
R/o at Post. Pali,
Tq. & Dist. Beed.

..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

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Mr.N.S.Ghanekar, Advocate for the applicants.
Mrs.R.P. Gaur, APP for respondent/State

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CORAM : V.L.ACHLIYA,J.
DATE : 02.12.2020

ORAL ORDER :

. On an apprehension of arrest in connection with the offence registered U/s. 326, 324, 323, 143, 147, 148, 149, 504, 34 of the Indian Penal Code (IPC), vide C.R. No.0339/2020 with Beed Rural Police Station District Beed, the applicants have preferred this application seeking pre-arrest bail on the grounds set out in detail in the application.

2. Heard learned counsel for the

applicants and learned APP representing the respondent-State. Perused the first information report, the order passed by the learned Additional Sessions Judge and the papers of investigation.

3. In brief, it is the contention of learned counsel for the applicants that the applicants are falsely implicated in the case at the behest of the informant, who lodged the complaint after 6-7 days of incident implicating the entire family of the applicants. Delay in lodging the complaint has not been explained. It is contended that, the land bearing Gat No.659 is in cultivation and possession of the family of the applicants. On 11.10.2020, the father of the applicant no.1 died at about 11 am. As per wishes of his father, applicant no.1 and his family members brought dead body of deceased Waman in agricultural land bearing Gat No.659 to bury the dead body in said field. Informant objected to bury the dead body in the said field. On that account, there was quarrel amongst the applicants and the informant and his family members. In the incident, the informant and his family members including son having criminal

antecedents assaulted the applicants and their family members. They reported the incident to the Police. The applicants were referred for medical examination to the Government hospital and treated there. After examination, the Police have refused to register the offence against the informant and his family members. Therefore, the applicants approached the District Superintendent of Police on 12.10.2020 and made complaint against the officials of the concerned Police Station for not registering the crime. Pursuant to the directions issued by the District Superintendent of Police, the Police have registered the crime against the informant and 8 other persons on 14.10.2020 vide C.R. No.332/2020 for committing the offences punishable U/Sec. 143, 147, 149, 354, 324, 323, 327, 504, 506 of the IPC.

4. It is submitted that as a counter blast to the crime registered against the informant and his family members, the informant lodged the false complaint on 17.10.2020 leading to registration of aforesaid offences against the applicants and their family members. It is submitted that the complaint lodged is false and frivolous

and made after due deliberation to implicate the applicants and their family members. No explanation has been put-forth as to delay of 7 days in lodging the complaint. It is submitted that the applicant no.1 is a teacher by profession. The applicant no.2 is his wife and housewife. Both the applicants have no past record of involvement of any criminal activities. In case, the applicants are not protected, there is every likelihood that the applicants may be arrested, humiliated and harassed for no offence committed on their parts. By referring to overall facts of the case and the nature of injuries, learned counsel submits that no offence U/Sec. 326 of IPC is attracted in the case. The injuries as sustained at the most make out case U/Sec. 323 and 324 of IPC, which are bailable.

5. On the other hand, learned APP opposed the application on the ground that there is a strong prima facie case to connect the applicants with the offences registered against them. By referring to the overall facts of the case, nature of allegations coupled with the medical report of examination, learned APP submits that there

is strong case to establish the complicity of the applicants in the commission of offence. The names of the applicants are disclosed in the first information report. As per the first information report lodged by the informant, the applicants assaulted him by means of iron rod and caused fracture injuries to his hand. The allegations made in the first information report are duly supported with the report of injury issued by the doctor, who treated the applicants after the incident. It is submitted that in order to conduct proper investigation and recover the iron rod used in commission of offence, the custodial interrogation of the applicants is necessary. If the applicants are granted anticipatory bail, it may hamper the ongoing investigation.

6. I have carefully considered the submissions advanced in the light of overall facts of the case, nature of accusations made against the applicants, status and criminal antecedents and the specific allegations made against the applicants. At the outset, there are no serious allegations made against the applicant no.2. The role attributed to the applicant no.2 in commission of offence

confines to her presence on the scene of offence along with other accused. The act of assault has been attributed to the applicant no.1 and co-accused Sanay Rama Veer. It is apparent from the allegations made in the first information report that the incident was not premeditated and occurred all of sudden on account of dispute to bury dead body in the field survey no.659. Informant objected to bury the dead body in the said field survey no.659. On that count, there appears to be quarrel amongst the family of the applicant no.1 and the informant. In the incident, both the parties have sustained injuries. The applicant no.1 was referred for medical examination in the Government hospital. Both of them found to have sustained minor injuries. Pursuant to the complaint lodged by the applicant no.2, the offence U/Sec.143, 147, 149, 354, 324, 323, 327, 504, 506 of IPC came to be registered vide C.R. no.0332/2020 on 14.10.2020 against the informant and other family members of the informant. No complaint was lodged at the instance of the informant on the day of incident or subsequent thereto. The complaint in respect of the incident first time reported on 17.10.2020 i.e. 3 days after the

offence came to be registered against the informant and his family members. No explanation has been put-forth as to delay of 7 days in lodging the complaint. Injuries sustained by the informant were not of a nature, which apprehended the informant to lodge the report in respect of the incident immediately after the incident or within reasonable time. The fact that the informant has lodged a complaint against the applicants and his family members only after the complaint lodged against them, the possibility of complaint being lodged to give counter blast to the said complaint cannot be ruled out.

7. The papers of investigation spell out that the informant has not visited the Police Station nor referred to Government hospital for medical examination issued by private doctor. The certificate of medical examination reflects that the same was issued on 27.10.2020. The M.L.C. in respect of the admission of the informant itself sent on 14.10.2020. The date of incident is 11.10.2020. The medical examination shown to be made on 12.10.2020. Considering the overall facts of the case, cross cases

against their rival parties, delay of 7 days in lodging the complaint, the possibility of the applicants being falsely implicated at the behest of the informant by giving exaggerated version of incident cannot be ruled out. The applicant no.1 is claimed to be teacher by profession and having deep roots in the society. He has no criminal antecedents. The applicant no.2 is wife of the applicant no.1 and housewife. She is also not having any criminal antecedents. The allegations made against her are confined to abusing the informant and other family members. Grant of anticipatory bail to the applicants would not hamper on-going investigation. The applicants have shown their willingness to cooperate with investigation. I am therefore inclined to allow the application. Hence the following order:-

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicants in connection with the offences registered U/sec. 326, 324, 323, 143, 147, 148, 149, 504, 34 of the Indian Penal Code

vide C.R. No.0339/2020 with Beed Rural Police Station, District Beed, the applicants be released on anticipatory bail in the sum of Rs.20,000/- each with one surety in the like amount on following conditions :

a) The applicants shall appear before the Investigating Officer on 6th December, 2020 at 11 a.m. and shall remain present in the Police Station upto 5 p.m. and cooperate in investigation.

b) After 6th December, 2020, the applicants shall appear before the Investigating Officer as and when directed by the Investigating Officer.

c) Pending hearing and final disposal of the case against the applicants, the applicants shall not commit any act amounting to pressurizing the prosecution witnesses.

d) Pending hearing and final disposal of the case against the applicants, the applicants shall not indulge into any offences of similar in nature.

e) In the event of breach of any of the

conditions, the prosecution is at liberty to move the Court to cancel bail granted to the applicants.

f) The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

SGA