

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

ANTICIPATORY BAIL APPLICATION NO. 1103 OF 2020

1. Dhondiram s/o Sopan Veer
2. Atul s/o Sopan Veer
3. Tejaswini w/o Dhondiram Veer ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1104 OF 2020**

1. Anurath s/o Sopan Veer
2. Babasaheb s/o Sopan Veer
3. Pratik s/o Babasaheb Veer
4. Dadarao s/o Satyabhan Veer ...Applicants

Versus

The State of Maharashtra ...Respondent

...
Mr. M.P. Gandle, Advocate for the applicants.
Mr. A.M. Phule, APP for the respondent-State.
...

**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 18th DECEMBER, 2020.**

ORDER:-

. Both these applications have been filed by original accused persons for getting bail under Section 438 of the Code of Criminal Procedure, as they are apprehending their arrest in connection with Crime No.332 of 2020 registered with Beed

Rural Police Station, District Beed for the offences punishable under Sections 143, 147, 149, 354, 324, 323, 327, 504 and 506 of the Indian Penal Code.

2. Heard learned Advocate Mr. M.P. Gandle for the applicants and learned APP Mr. A.M. Phule for the respondent-State.

3. It has been vehemently submitted on behalf of the applicants that perusal of the FIR would show that it has been filed with malafide intention and in fact, the informant is alleging that present applicants themselves had created a scene that they have been assaulted. A non-cognizable offence was filed by accused no.1 Anurath on 11.10.2020 at about 11.30 am against the husband of the informant in respect of the incident of the same day i.e. 11.10.2020. Now, the informant has filed FIR on 14.10.2020 in respect of the incident dated 11.10.2020. First page of the FIR wrongly mentions it as 13.10.2020 when in fact, it is apparent from the contents of the FIR that the incident had taken place on 11.10.2020. Thus, it can be seen that there is apparent delay in lodging the FIR and it was just to save the informant, her husband and relatives. One more FIR has been lodged by one Babasaheb Sopanrao Veer in respect of the incident dated 11.10.2020 vide Crime No.339 of 2020 registered with the same police station for the offences punishable under Sections 326, 324, 323, 143, 147, 148, 149, 504 read with 34 of the

Indian Penal Code. In fact, applicants had received injuries in the attack by the husband of the informant and her relatives. Physical custody of the applicants is not required, therefore, they deserve to be released on bail.

4. Per contra, learned APP strongly opposed both the applications stating that from the FIR it is very much clear that weapons have been used in commission of the crime and they are required to be recovered. Further, the accused persons had even raised a question as to why the cremation has taken place in fact, the father-in-law of the informant had expired and it would have been proper for the son of deceased i.e. husband of the informant to do the last rites of his father, yet, at that time unnecessary dispute has been raised. The medical certificate of the husband of the informant is not yet received and therefore, physical custody of the applicants is required.

5. It is to be noted that though, it is stated that some of the accused persons have used weapons, yet, the offence that has been registered is under Section 327 of the Indian Penal Code, which contemplates only hurt and therefore, recovery of weapon cannot be the criteria for curtailing their liberty. Other offences are almost bailable and therefore, without even going into the details of the manner in which the alleged crime had taken place, physical custody of the present applicants is not required.

6. Perusal of the documents would also show that one N.C. complaint under Section 323, 504, 506 read with 34 of the Indian Penal Code was immediately registered by accused no.1 Anurath Sopanrao Veer on 11.10.2020, which was against the husband of the informant and other three persons. Further, there also appears that one more FIR has been registered on 17.10.2020 regarding the incident dated 11.10.2020. That FIR appears to be after the present FIR and therefore, we need not take cognizance of that FIR. No doubt, it appears from the N.C. complaint as well as this FIR that the place of the offence in both the complaints appear to be different and therefore, they may not be strictly cross cases, yet, some incident had taken place on that day. Taking into consideration the contents of the FIR in the present case, physical custody of the applicants is not required. They deserve to be released on anticipatory bail. Hence, the following order is passed:

ORDER

- I) Both the applications stand allowed.
- II) The order passed by the learned Additional Sessions Judge-3, Beed in Criminal Miscellaneous Application No.714 of 2020 dated 03.11.2020, is hereby set aside. The said application stands allowed.
- III) In the event of arrest of the applicants in both these applications in connection with Crime No.332 of 2020 registered with Beed Rural Police Station, District Beed for the

offences punishable under Sections 143, 147, 149, 354, 324, 323, 327, 504, and 506 of the Indian Penal Code, they be released on P.R. and S.B. of Rs. 15,000/- (fifteen thousand) each.

IV) The applicants shall remain present before the Investigating Officer on every Monday and Thursday between 10.00 am to 12.00 pm till filing of the charge sheet.

V) The applicants shall not tamper with the evidence of the prosecution in any manner and shall co-operate with the investigation.

VI) The applicants shall not indulge in any criminal activity.

(SMT. VIBHA KANKANWADI, J.)