

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

ANTICIPATORY BAIL APPLICATION NO.6 OF 2021

MAYA MAKHANLAL DHURMEKAR
PAVAN RADHESHYAM SHINDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Sawant Amol S.
APP for Respondent/State: Mrs. R.P. Gaur

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CORAM : MANGESH S. PATIL, J.

DATE : 22.01.2021

PER COURT :

In this application under Section 438 of the Code of Criminal Procedure.

2. The applicants are two out of number of accused against whom Crime No.29/2019 is registered with Deopur Police Station, Dhule for the offences punishable under Section 395, 436, 452, 454, 427, 504, 506 read with Section 34 of the Indian Penal Code, seeking bail in the event of their arrest.

3. The allegations are to the effect that the informant is a manager at a liquor shop. On 05.03.2019 a person was found dead in front of the shop. Infuriated with his death, all the accused persons arrived at the shop, ransacked it, burned the furniture and the nameplate, destroyed the liquor boxes and in the process some of the accused even stole the cash from the

counter. The FIR was lodged on 07.03.2019 and the offence came to be registered.

4. The learned advocate for the applicants taking me through the contents of the FIR would submit that though at one place name of the applicant Pavan appears in the FIR no specific and precise role has been attributed to him. Though applicant Maya is attributed to have taken part in burning the nameplate of the shop as well as burning the liquor boxes, the allegation is omnibus. He would further point out that one Suman Sukhdev Mahukar is also attributed with the same role as is being attributed to applicant Maya. Suman has been granted anticipatory bail by the Sessions Court by the order dated 25.09.2020. The incident has taken place without any premeditation. There was no animosity. It appears that it was a mob fury. The applicants are not criminals. They are ready to cooperate the Investigating Officer and may be granted bail in the event of their arrest.

5. The learned APP opposes the application. She submits that since it is a case of mob fury, it is not expected that there should be some concrete material, even when the investigation is going on, attributing specific role to each member of the mob. She points out that it has been mentioned in the FIR that apart from the persons named therein even the other assailants had taken part in damaging the shop. She would further submit that the role has been specifically attributed to applicant Maya in destroying the board and liquor boxes. There are statements of the persons working in the shop corroborating the version in the FIR. Since the matter

involves number of assailants and is still at the stage of investigation, the applicants may not be granted anticipatory bail.

6. I have carefully gone through the papers. The incident had taken place on 06.03.2019. Needless to state that Investigating Officer must have had sufficient opportunity to go ahead and complete whatever investigation he could do. The fact remains that in spite of lapse of so much time, nothing could transpire to attribute anything to the applicant Pavan. Even the FIR only mentions his name at one place without attributing any role to him.

7. So far as applicant Maya is concerned though the FIR reads that she had taken part in one episode of destroying nameplate of the shop and liquor boxes, the same are the allegations even against co-accused Suman who has been granted anticipatory bail by the learned Additional Sessions Judge.

8. It is not a matter where there is involvement of some criminals. It appears that in all probability the residents were infuriated because of the death of a person in front of the shop and were perceiving that it was because of the liquor shop that he had died.

9. Obviously the incident cannot be justified in any event but the fact remains that there is no specific role attributable to the applicant Pavan. Maya is a woman and co-accused Suman who stands on the same footing has been granted anticipatory bail. Therefore both the applicants deserves to be granted bail in the event of their arrest.

10. The Application is allowed. In the event of the arrest of the applicants in connection with Crime No.29/2019, registered with Deopur Police Station, Dhule for the offences punishable under Section 395, 436, 452, 454, 427, 504, 506 read with Section 34 of the Indian Penal Code, they shall be released on bail on their executing personal recognizance for an amount of Rs.15,000/- each and furnishing a solvent surety in the like amount each subject to following conditions:

- a) They shall attend the concerned police station on 01.02.2021, 03.02.2021 and 05.02.2021 between 11 a.m. and 2 p.m. and shall cooperate the Investigating Officer.
- b) They shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

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