

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 ANTICIPATORY BAIL APPLICATION NO.9 OF 2021

1]ASHOK ANNARAO USTURE
2]HIRKANBAI W/O ASHOK USTURE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Venjane Tukaram M.
APP for Respondents: V.M.Kagne

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CORAM : MANGESH S. PATIL, J.
DATE : 23.02.2021

PC. :-

This is an application under Section 438 of the Cr.P.C. as the applicants are apprehending their arrest in connection with Crime No.178/2020 registered with Killari Police Station, Dist.Latur for the offences punishable under Sections 307,143,147,148,149,324,323,504,506 of the I.P.C.

2] Shortly stated the allegations are to the effect that the applicants and the other accused were annoyed by the conduct of informant Pralhad who had allegedly removed the boundary stone intervening their lands. It is alleged that on 30/10/2020 in the night time, all the accused persons including applicants formed an unlawful assembly with an object of assaulting Pralhad. They caught hold him and he was brutally assaulted with an intention to kill him. He also sustained few stab injuries on the torso. The F.I.R. was lodged by Pralhad on 3/11/2020 and the crime was registered.

3] The learned advocate for the applicants submits that though the applicants have been named in the F.I.R., no specific and exclusive role is attributed to them much less in carrying out assault. The investigation has already been completed. The prime accused have already been arrested. Charge sheet has also been filed. Applicants are senior citizens. They have been granted ad-interim anticipatory bail by this Court. There are no allegations about they having breached the conditions and the ad-interim anticipatory bail may be confirmed.

4] The learned A.P.P. submits that the offence is serious. It is a matter of formation of an unlawful assembly with an object of assaulting informant. Pursuant to such an object they have assaulted him. There are 3 stab injuries on his torso which were sufficient in the ordinary course to cause death. Though the applicants have not been attributed with any specific overt act in the F.I.R., they would be liable for all the consequences that had ensued pursuant to anything done in furtherance of the common object. He would further submit that there are statements of witnesses Pandurang Kadappa Usture, Dhondiram Kadappa Usture and Vanita Pralhad Usture wife of the informant about the applicant no.2 also having taken part in assaulting informant. He therefore submits that custodial interrogation of the applicants is necessary and the application be rejected.

5] I have carefully gone through the papers of the investigation. As can be seen from the F.I.R., no specific and exclusive overt act is attributable to either of the applicants. Though there are statements of aforementioned 3 witnesses attributing some overt act to the applicant no.2 even these allegations are equally vague and omnibus in as much as they have claimed few other

accused persons alongwith applicant no.2 having assaulted the informant with sticks and stones.

6] There are not even such vague and omnibus allegations as far as applicant no.1 is concerned.

7] Though the injury certificate of the informant reads that he had sustained 3 stab injuries, conspicuously no other injury was noticed. Absence of such injuries even though the informant is stated to have been assaulted by sticks and stones, the allegations are apparently not compatible with the injuries found on the person of the informant.

8] Admittedly, the investigation has been completed and even the charge sheet has been filed.

9] The applicants are senior citizens who have been granted ad-interim anticipatory bail by order dated 8/1/2021 and the same deserves to be confirmed with the same terms and conditions.

10] The application is allowed. The ad-interim anticipatory bail is confirmed with the same terms and conditions.

[MANGESH S. PATIL, J.]