

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

937 ANTICIPATORY BAIL APPLICATION NO.99 OF 2021

Shubham s/o Raju Kamble,
Age 20 years, Occ. Student,
R/o. Jalna Jamuna Nagar, Juna Jalna,
Tq. and Dist. Jalna. ...Applicant.

Versus

The State of Maharashtra,
Through .I. Kadim Jalna Police Station,
Dist. Jalna. ...Respondent

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Advocate for Applicants : Mr. Pratik A. Bhosle
APP for Respondent-State : Mr. P.G. Borade

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CORAM : MANGESH S. PATIL, J.
DATE : 03 MARCH 2021

PER COURT :

Apprehending his arrest in connection with Crime No.15/2021 registered with Kadim Jalna Police Station, Dist. Jalna for the offences punishable under Section 307, 143, 147, 148, 149, 323, 506 read with Section 34 of the Indian Penal Code and under Section 4/25 of the Indian Arms Act, the applicant is seeking bail under Section 438 of the Code of Criminal Procedure.

2. It is alleged that the main accused Jaja happens to be the friend by the informant. When the informant was passing by the road, Jaja and other accused, including the present applicant were present there. Jaja started questioning as to why he was quarreling with him on

the previous day. When the informant started leaving the spot, Jaja is stated to have given a blow of sword on his neck and the applicant and the other accused are alleged to have assaulted him with kicks and fists blows.

3. The learned Advocate for the applicant submits that no specific and precise overt act is attributed to the applicant. It is only in omnibus manner, it has been alleged that the applicant and the other accused having assaulted him with fists and kicks. Nothing is to be recovered from him. Main accused has already been arrested and released on regular bail. He is ready to co-operate the Investigating Officer. His custodial interrogation is not necessary and he may be granted anticipatory bail.

4. The learned APP opposes the application. He submits that there is no dispute as to the identification. The informant has specifically stated about applicant having assaulted him with kicks and fists. Even in his statement under Section 164 of Cr.P.C., he has confirmed it. The injury certificate shows that the informant has sustained an injury on the neck with a sharp weapon. Considering the serious nature of the crime, custodial interrogation of the applicant is necessary and the application be rejected.

5. I have carefully gone through the papers of investigation. Accepting the version as is being put forth in the FIR, there was

apparently, no pre-meditation. It is only incidentally that the informant while he was passing by the road that the applicant and the other accused were also present there. The incident seems to have been ensued thereafter.

6. The allegations are to the effect that main accused Jaja had injured the informant with a sword by inflicting an injury. Though, the prosecution is now seeking to invoke provisions under Section 149 of the Cr.P.C., the incident seems to have taken place *ex tempore*.

7. Considering the fact that the allegations against the applicant are omnibus in as much as he is stated to have assaulted the informant with kicks and fists along with the other accused and when no such injuries with these allegations could be noticed during the medical examination of the informant, it would be appropriate to grant anticipatory bail to the applicant, subject to usual terms and conditions.

8. The application is allowed.

9. In the event of arrest of the applicant in connection with Crime No.15/2021 registered with Kadim Jalna Police Station, District Jalna for the offences punishable under Section 307, 143, 147, 148, 149, 323, 506 read with Section 34 of the Indian Penal Code and under Section 4/25 of the Indian Arms Act, he shall be released on bail on his executing personal recognizance for an amount of Rs.15,000/- (Rupees

fifteen thousand) and furnishing a solvent surety in the like amount, subject to the following conditions.

- (a) He shall attend the concerned Police Station on two consecutive Saturdays, starting from 06.03.2021 between 11.00 am. and 02.00 p.m. and shall co-operate the Investigating Officer.
- (b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

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