

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

ANTICIPATORY BAIL APPLICATION NO. 110 OF 2021

1. Adesh Rajaram Dhavle
2. Aamol (Amol) Rajaram Potavale ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. Ameya Sabhis, Advocate h/f Mr. A. S. Sawant, Advocate for the applicants

Mr. S. P. Tiwari, APP for the respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 19th MARCH, 2021

PER COURT :-

1. This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicants claim to have an apprehension of being arrested in connection with Crime No.0564/2020, registered at Belwandi Police Station, taluka Shrigonda, District Ahmednagar, for the offences punishable under Section 327 of the Indian Penal Code.

2. Heard. Perused the First Information Report (FIR).

The FIR has been lodged within hours of the incidence

on 03.12.2020. It is alleged in the FIR that the informant was playing cricket on a ground at Niloba Nala Rajapur. Both the applicants came there on motorbike. They were armed with sticks. Both the applicants assaulted the informant with sticks. Then, they went away, but came back within minutes and applicant No.2 relieved the informant of his gold chain worth Rs.50,000/- . Both of them again assaulted him and went away.

3. Mr. Ameya Sabnis, learned Advocate holding for Mr. A. S. Sawant, learned Advocate for the applicants would submit that all was not well between the informant and the applicants. The informant has criminal antecedents. There is no injury certificate to indicate the informant to have suffered beating at the hands of the applicants. The incident of relieving the informant of his gold chain has been intentionally introduced in the FIR with a view to make offence non bailable. He, therefore, urged for grant of application.

4. Learned APP would, on the other hand, submit that custodial interrogation of the applicants is required. The gold chain is to be recovered. He, therefore, urged for rejection of the application.

5. It is true that if the allegations in the FIR are accepted as it is, the applicants will not be entitled for grant of anticipatory bail. The applicants have, however, reason to contend that the incidence regarding relieving the informant of his gold chain is after thought. When the informant was thrashed by both the applicants with sticks, he must have suffered injuries. There is, however, no injury certificate in support of the same. There is a cross complaint lodged against the informant herein. The informant appears to have criminal antecedents. At the instance of the relations of the applicant and father of the applicant No.2, two crimes have been registered against the informant in the past. As such, the relations between the informant and the applicants appear to be not good. The learned Advocate for the applicants may be right in submitting that now a days a tendency is on the rise to give colourful version of a petty incident. He would further submit that with a view to make the offence serious and warranting arrest of accused persons, ingredients of offence of extortion are introduced.

6. It is not that incident did not take place. It appears that it was a fight between the informant and the applicants. There is no injury certificate to substantiate the allegations in the FIR that the

informant was thrashed by the applicants with sticks. The informant appears to be a matured person. The applicant No.1 is 19 years old. The informant has criminal antecedents. He is facing two prosecutions at the instance of the relations of the applicants. In one of the two prosecutions, the father of the applicant No.2 is the informant. The allegations in the FIR are to be tested with pinch of salt. There is nothing further to re-inforce the allegations in the FIR. On the offence being proved, the applicants would be convicted. In the fitness of things, I am inclined to grant the applicants, anticipatory bail. Hence, following order:

ORDER

- (i) The application is allowed in terms of the following order.
- (ii) In the event of arrest of the applicants in connection with Crime No.0564/2020, registered at Belwandi Police Station, taluka Shrigonda, District Ahmednagar, for the offence punishable under Section 327 of the Indian Penal Code, the applicants be released on executing P. R. bond in the sum of

Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.

- (iii) The applicants shall appear before the Investigating Officer as and when required for the purpose of investigation.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.

[R. G. AVACHAT, J.]

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