

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.177 OF 2021

1. Dilip s/o Uddhavrao Mete
 2. Sunil s/o Laxmanrao Kadam
- ... **Applicants**

Versus

The State of Maharashtra

... **Respondent**

.....

Mr. N. B. Khandare, Advocate for applicants.
Mr. A. M. Phule, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 9th March, 2021
Pronounced on : 16th March, 2021

ORDER :-

1. Present application has been filed by the accused persons who have been arrested on 20.01.2021 in connection with Crime No.05 of 2021 by Wadwani Police Station, District Beed for the offences punishable under Sections 353, 332, 333, 109, 120-B of Indian Penal Code. Present application has been filed by them for bail under Section 439 of Code of Criminal Procedure.

2. Heard learned Advocate Mr. N. B. Khandare 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 the First Information Report has been lodged by one Prashant

Vyankatrao Patil – serving as the Chief Officer of Nagar Panchayat, Wadwani, with ulterior motive just to harass the applicants. Sumitkumar - son of present applicant No.1 is serving as architect with Nagar Panchayat, Wadwani. He was harassed by the present informant. The applicants had no concern with the work of Sumitkumar. Further, perusal of the FIR would show that the alleged incident is stated to have taken place at about 6.15 p.m., that means after the official timing of the Nagar Panchayat. Informant cannot be stated to be discharging his official duty at that time. Registration of offence has taken place around 10.00 pm. It is belated and there is no explanation for the said delay in the FIR. The applicants have not committed any offence. Further, now the substantial part of the investigation is also over; therefore, the further physical custody of the applicants is no longer required. Applicant No.1 is aged 60 years. Applicant No. 2 is the maternal uncle of said Sumitkumar. The applicants are ready to abide by the terms of the bail. The learned Advocate appearing for the applicants has, therefore, canvassed for releasing the applicants on bail.

4. Learned APP has strongly opposed the application. It has been submitted on behalf of the prosecution that the informant is not an ordinary person. He is the Chief Officer of Nagar Panchayat. The offence has taken place in his office, that too in presence of his subordinates.

Accused No.1- Sumitkumar is serving as architect with Nagar Panchayat. Informant had gone for the inspection of work of construction of houses under Pradhanmantri Aawas Yojana. Sumitkumar, being architect was involved in the implementation of the said scheme. He was the subordinate of informant. When informant had asked Sumitkumar to make him available the record of the scheme, and he was asked as to why he has kept that work pending for many days, said Sumitkumar gave arrogant answers and threatened informant to kill. Thereafter around 6.15 p.m., the present applicants arrived and they have assaulted informant with knife and iron rod. He has sustained multiple injuries over his body. The medico-legal certificate of the informant would support his FIR. Statements of witnesses who are the employees of the Nagar Panchayat also support the fact told by the informant. Important point is that both the applicants have been caught by police, who had arrived at the spot immediately. Police Station is across the road. The applicants have not explained their presence in the said office at that odd hours. Now, said Sumitkumar is absconding. Taking into consideration the evidence against the present applicants, they are not entitled to be released on bail.

5. At the outset the contents of the first information report have been narrated earlier and, therefore, they are not reproduced here. The

police papers made available, would show that substantial part of the investigation is over as regards the role attributed to the present applicants. The weapons used in the commission of the crime have been seized from the spot. The applicants are not denying their presence at 6.15 p.m. on 19.01.2021. Why they had gone at that point of time in that office is not tried to be explained by them. No doubt, being accused, they are entitled to keep mum on certain facts; but when they are raising a question about presence of informant in the office after office hours, then they ought to have put up their own facts in the nature of explanation for their presence in the said office at that time. Applicants are not disputing that they were caught by police around that time on that day and were brought to police station. Now, point in respect of delay in lodging the FIR has been raised. The incident had taken place around 6.15 p.m. Informant has been medically examined around 7.00 p.m.. FIR has been lodged around 11.13 p.m. Whether this delay is fatal or not would be decided by the learned Trial Court. However, present applicants were already taken in custody by police. Therefore, there appears to be no scope for any exaggeration by informant. Present applicants have not stated that informant had any motive to implicate them.

6. Here, the allegations against the present applicants are that they

had enter the cabin of the informant. Informant is the Chief Officer of Nagar Panchayat. Applicant No.1 was holding iron rod and he started asking informant as to why he asks his son Sumitkumar to do work. When informant was the superior of Sumitkumar, then he was bound to direct him to do work. Father is not suppose to interfere in the official work of the son. Further the FIR says that applicant No.1 asked informant that he was told in the past also about it, but now he would show. This indicates that applicant No.1 had interfered with the official work of his son in the past also. Applicant No.1 abused informant. Applicant No.2 – maternal uncle of Sumitkumar caught hold of the neck of informant and dragged him out of his office, downstairs. Informant has been then assaulted by applicant No.1 by iron rod on back, right shoulder, both legs. Applicant No.2 had then took out button knife and blow was given on the hands of informant. All this had taken place in presence of the staff members of Nagar Panchayat. Then the police across the road were called and they took both the applicants to police station. Informant had given directions for work to Sumitkumar around 5.30 p.m. Both the applicants then stated to have arrived at 6.15 p.m. and they were armed. This shows that they had come with predetermination.

7. If we consider the medico-legal certificate of the informant, it

shows seven injuries. First is incised wound on base of left hand thumb on palmar aspect, caused by sharp object. Second injury is lacerated wound on left hand thumb, caused by hard object. Third is incised wound on left anterolateral of thigh, caused by sharp object. There are then bruise on shoulder, multiple bruises on left forearm, multiple contusions on back and both legs, caused by hard object. All the injuries are simple.

8. Police papers show statements of eye-witnesses supporting FIR. One iron rod and button knife has been recovered. There appears to be strong evidence about involvement of both the applicants. The manner in which the offence has been committed is required to be considered. Informant who is the Chief Officer of Nagar Panchayat was discharging his official duty at the relevant time. He had asked certain things to be done by Sumitkumar, who was subordinate. Then the present applicants have reacted in such manner. If such applicants are released on bail, then the moral of the public servants would go down. Under such circumstance, they do not deserve to be released on bail. Hence, their application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm