

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

925 ANTICIPATORY BAIL APPLICATION NO. 133 OF 2021

1. SANGITA VILAS JADHAV
2. KAMAL @ KAMALABAI AMBADAS JADHAV
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. P.N.Khedkar.
APP for Respondent : Ms. R.P. Gour.

**CORAM : MANGESH S. PATIL, J.
DATED : 08.04.2021**

PER COURT :

This is an application under Section 438 of the Criminal Procedure Code, as the applicants are apprehending their arrest in connection with Crime No. 1133/2020 registered with Karjat Police Station, District Ahmednagar, for the offences punishable under Sections 327, 326, 324, 341, 323, 504, 506, 34 of the Indian Penal Code.

2. The FIR has been lodged by the wife of the main accused. The applicant No. 1 is her sister-in-law (wife of brother-in-law) and the applicant No. 2 is her mother-in-law. It is being alleged that the couple had separated about two months prior to the incident and the husband had withdrawn some money from the joint account. Annoyed by such withdrawal of money the informant went to his

house questioning him as to the reason why the amount was withdrawn. When she tried to catch hold his pocket, her brother-in-law Vilas is stated to have assaulted her with a stick on head. It is alleged that all the accused including the present applicant then assaulted the informant, her sister Tara who was accompanying her. The applicant No. 2 is stated to have attempted to throttle informant's minor son.

3. The learned Advocate for the applicants would submit that there was no per-meditation. In fact the informant is a police constable. She had been to the house of the accused persons. It is thereafter that the incident has occurred. There is every room to believe that the FIR contains exaggerated version. There is no corroboration from any independent source regarding the role attributed to the applicants. The applicants are women. When the informant is a police constable and her sister and the minor son of the informant who had gone to the house of the accused persons and when the husband of the informant and his brother were very well there, in the normal course they could have easily themselves assaulted the informant and her sister. It is unlikely that even the applicants could have been required to take part. They have been granted ad interim relief. There are no allegations about they having

committed breach of the conditions. They are ready to cooperate the Investigation Officer. The ad interim relief be confirmed.

4. The APP opposes the application. She submits that specific and precise allegations have been levelled against both the applicants. Applicant No. 1 is stated to have smeared chilly powder, whereas, the applicant No. 2 is stated to have assaulted the informant and her sister with a stick and even she is stated to have attempted to throttle the minor son of the informant. The injury certificates also corroborate the version of the prosecutrix in as much as, Tara had sustained four injuries including a fracture of the elbow bone which is a grievous injury. Even informant had sustained four injuries. Custodial interrogation of the applicants would, therefore, be necessary considering the role of the applicants. The application be rejected.

5. I have carefully gone through the papers of the investigation. Accepting the version of the prosecution at its face value, there was no premeditation. The informant along with her sister Tara and minor son Pranav had gone to the house of accused persons questioning the husband about withdrawal of money from the joint account. Though it is now being alleged that the applicant No. 1 had splashed chilly powder, the spot panchanama does not corroborate

the fact and there is no other material as well to corroborate this fact. As far as the applicant No. 2 is concerned, she is stated to have assaulted the informant and her sister Tara with stick and even tried to throttled Pranav. For the reasons best known to the Investigating Officer the papers of investigation handed over by the prosecution does not contain any statement of Pranav.

6. Considering the fact that the applicant No. 2 is an aged lady, coupled with the fact that the informant is a lady constable, the allegations seem to be exaggerated.

7. Admittedly, the other two accused i.e. the husband of the informant and his brother have been arrested and released on bail. The applicants were protected by way of ad interim relief. There are no allegations about they having committed breach of the conditions.

8. In the circumstances, the application deserves to be allowed. The application is allowed. The ad interim relief granted earlier by the order dated 10.02.2021 stand confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)