

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

ANTICIPATORY BAIL APPLICATION NO. 155 OF 2021

1. Ayyub Abdul Rajjak Tutke
2. Mainuddin Abdul Rajjak Tutke
3. Babalu Tutake @ Alidad Mainuddin Tutake ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. A. S. More, Advocate for the applicants

Mr. P. G. Borade, APP for respondent-State

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CORAM : R. G. AVACHAT, J.

DATED : 19th MARCH, 2021

PER COURT :-

. 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.30/2021, registered at Paranda police Station, District Osmanabad for the offence punishable under Sections 186, 332, 353, 504 read with Section 34 of the Indian Penal Code.

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

The FIR has been lodged by a Police Constable, working with Paranda Police Station. It has been alleged in the FIR that the informant was deputed for patrolling duty. He was accompanied by a Homeguard Shri N. A. Thite. By 11.15 p.m., the informant was passing from Samtanagar hutments. Homeguard Thite was in his company. Both of them noticed that there was fight among 7/8 boys. The informant, therefore, went to them. Three of them used criminal force against the informant and Homeguard Thite. They even manhandled them. Since the informant retaliated the three, namely (1) Shahrukh Sayyad, (2) Abju Tutke and (3) Niyamat Tutke, went away on a Scooty. The informant telephoned the police officer and sought for police force. Within minutes, some police staff and Homeguards came to the place. All of them set out in search of the aforesaid three accused. They went to their residence in Momin Galli and inquired about Abju Tutke. Three persons (applicants herein) came out of the house. They questioned the police party as to why did they disturb them in their sleep. The applicants argued with the Police Head Constable and the informant, as well. The informant therefore lodged the FIR.

3. Shri A. S. More, learned Advocate for the applicants would submit that the allegations against the applicants are general in nature. They have not been attributed any overt act. Custodial interrogation of the applicants is not required. He, therefore, urged for grant of application.

4. Learned APP would, on the other hand, submit that the applicants have been involved in the offence of obstructing the Police Officers in discharge of their official duty. The applicants do not deserve leniency. He, therefore, urged for rejection of the application.

5. The only allegations in the FIR against the applicants are to the effect that they argued with the informant and questioned him as to why did they were disturb in their sleep. Considering these allegations, custodial interrogation of the applicants is not required. The applicants are ready to co-operate with the investigation. It is therefore desirable to grant them anticipatory bail. Hence, following order:

ORDER

- (i) The application is allowed.

- (ii) In the event of arrest of the applicants in connection with Crime No.30/2021, registered at Paranda police Station, District Osmanabad for the offence punishable under Sections 186, 332, 353, 504 read with Section 34 of the Indian Penal Code, the applicants be released on bail on their executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount.
- (iii) The applicants shall appear before the investigating officer as and when required.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.

[R. G. AVACHAT, J.]