

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 174 OF 2021

1. Lata w/o Shrikant Palve,
Age : 50 years, Occu. Household
2. Somnath @ Pappu s/o Dattatraya Kedar,
Age : 30 years, Occu. Agri.,

Both r/o Mahalaxmi Hivre,
Tq. Newasa, Dist. Ahmednagar

APPLICANTS

VERSUS

The State of Maharashtra,
at the instance of Sonai
Police Station, Taluka
Newasa, Dist. Ahmednagar

RESPONDENT

Mr. Shardul Shinde, Advocate holding for MR. Abhaysinh K. Bhosle,
Advocate for the applicants
Smt. R.P. Gaur, A.P.P. for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 05.05.2021

PER COURT :

By this application under Section 438 of the Code of Criminal Procedure, the applicants are seeking bail in the event of their arrest in connection with Crime No.20/2021, registered with Sonai Police Station, District Ahmednagar for the offences punishable under Sections 307, 341, 326, 324, 323, 504, 506, 141, 143, 147, 148, 149 of the Indian Penal Code.

2. The informant and applicant No.1 and her family members are near relatives inter se and hold lands adjacent to each other. There has been a long standing dispute on account of right of a way to approach their respective fields, which is pending before the Collector. It is alleged that on the date of the incident, when the informant alongwith her daughter Pooja and tractor driver namely Sachin were proceeding to their field for transporting sugarcane, the applicants and the family members of applicant No.1 are alleged to have obstructed them and assaulted all the three, causing grievous injuries. A report was lodged and the offence was registered.

3. The learned Advocate for the applicants, at the outset, informs that applicant No2 has already been arrested and released on bail.

4. The learned Advocate for the applicants would submit that the FIR does not refer to or attribute any role to the applicants. The allegations are against the other accused. No role is attributed to them. Applicant No.1 is being implicated merely because she happens to be the relative of the main accused namely Akshay Shrikant Palve, who has already been arrested. Nothing is to be recovered from the applicants. In fact, the informant and her family members are the aggressors against whom a crime was registered on 07.01.2021 bearing Crime No.7/2021 for the offences punishable under Sections 324, 323, 504, 506, 427 read with Section 34 of the IPC. The applicants are being falsely implicated for the obvious reason and the

application be allowed.

5. The learned A.P.P. opposes the application. She would submit that the offence is serious. The informant's daughter – Pooja has sustained grievous injury on the head. Though there is no reference in the FIR attributing any role to the applicants, in the statement injured Sachin has specifically named both of them and has attributed specific role to them. There was a strong motive. Pursuant to such a long standing dispute and registration of the earlier crime, the applicants and the other accused were entertaining a serious grudge and have carried out an assault in a systematic manner. Except the main accused Akshay, rest of the accused are still absconding. Releasing the applicants on bail is likely to cause prejudice to the investigation and the application be rejected.

6. I have carefully gone through the papers of investigation.

7. True it is that the FIR does not mention the names of the applicants, much less attribute any role to them. However, Sachin, who is driver of the tractor and one of the three injured persons, has specifically attributed role to applicant No.1. He states that alongwith the other accused, even applicant No.1 had obstructed the tractor being driven by injured Pooja. He has further stated that applicant No. 2 alongwith another accused Amol had forcibly abducted him from village after he had run away from the spot when the incident commenced and thereafter, he was further assaulted

causing fracture to his left leg.

8. The medico-legal certificates, however, do not show any grievous injury having been sustained by any of the three injured persons except injured Jaishree, who sustained fracture to the left wrist. Conspicuously, there is no fracture to the leg of Sachin.

9. Taking into account the previous animosity between the two families and the limited role attributed to applicant No.1 Lata, she deserves to be released on bail.

10. The application is partly allowed. In the event of arrest of applicant No.1 – Lata w/o Shrikant Palve in connection with Crime No.20/2021 registered with Sonai Police Station, District Ahmednagar for the offences punishable under Sections 307, 341, 326, 324, 323, 504, 506, 141, 143, 147, 148, 149 of the Indian Penal Code, she shall be released on bail on her executing personal recognizance for an amount of Rs.15,000/- (Rupees Fifteen Thousand) and furnishing a solvent surety in the like amount on following conditions :

- a] She shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.
- b] She shall not tamper the evidence or influence the witnesses.

11. Application to the extent of applicant No.2 – Somnath @ Pappu s/o Dattatraya Kedar is disposed of.

[MANGESH S. PATIL]
JUDGE

npj/ABA174-2021