

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.180 OF 2021

1. Somnath s/o Kansaram Patkal
2. Krushna s/o Bhausahab Nemane ... **APPLICANTS**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....
Shri P.A. Bharat, Advocate for applicants
Shri S.W. Munde, A.P.P. for respondent – State
.....

CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 25th MAY, 2021

ORDER :

This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicants are apprehending arrest in connection with Crime No.1014/2020, registered with Shevgaon Police Station, District Ahmednagar for the offence punishable under Sections 307, 326, 324, 341, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. The First Information Report (F.I.R.) relating to the incident dated 8/10/2020 has been lodged 14 days

thereafter i.e. on 24/10/2020. The informant – Radhakisan runs a hotel and permit room. It is his case that on 8/10/2020 by 11.30 p.m., he was on his way on his motorbike from his hotel Kanchan at Sonvahir Fata. When he was passing by a primary school at Chapadgaon, one white car without number plate intercepted his way. The applicants and one Bandu Neman (co-accused) alighted from the car. They questioned the informant as to why did he not give them meals and liquor on credit. The informant told them that he do not do business on credit. The applicants got annoyed thereby. They started beating him up with fists and kicks. The applicant No.1 Somnath gave a stick blow on the informant's head. The applicant No.2 Krushna gave a blow on his forehead with a stone. The applicants threatened him with dire consequences if they were not given food and liquor on credit. Due to the assault, the informant became unconscious. The trio left. One relative of the informant rushed him to the hospital. Since the relative was unaware as to how the informant had suffered injuries, it was reported to the medical officer that the informant had fallen from the motorbike and suffered the injuries. After the informant regained consciousness and was able to speak, he lodged the F.I.R.

3. Learned counsel for the applicants would submit that, there is delay of 14 days in lodging the F.I.R. Relationship between the applicants and the informant has been unfriendly. Way back in 2015, permit room and liquor shops at and around the village had to be closed down due to an agitation of the villagers headed by the applicants. The learned counsel urged for grant of the application.

4. Learned A.P.P. would, on the other hand, submit that, it was an attempt on the life of the informant. The injuries suffered are grievous in nature. Custodial interrogation of the applicants is required.

5. I have considered the rival submissions. There is 14 days delay in lodging of the F.I.R. The medical officer was informed that the informant suffered injuries due to fall from the motorbike. The informant regained consciousness on the very next day of his admission to the hospital. There is prima facie nothing to suggest that he was unable to walk and/ or speak. The injury certificate has been issued by a private hospital. There are papers on record to indicate that, at the instance of the villagers headed by the applicant, liquor shop and beer bar at and around the village had to be closed. The

informant appears to have had suffered the brunt. There is also on record a copy of the charge sheet to indicate that the applicant No.2 Krishna was the informant. The informant in this case is the accused No.1 therein along with few others. The allegations in the said F.I.R. indicate that the informant herein was alleged to have been running the hotel-cum-permit room beyond authorized time. The hotel was also used for prostitution. Be that as it may. The record indicates that, all was not well between the applicants and the informant. The F.I.R. has been lodged 14 days after the alleged incident. In spite of the fact that the informant had regained consciousness within a day or two of admission of the informant in the hospital, it was reported that he suffered injuries due to fall from the motorbike. All these facts incline me to grant the application. Hence the order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicants in connection with Crime No.1014/2020, registered with Shevgaon Police Station, District Ahmednagar for the offence punishable under Sections 307, 326, 324, 341, 323, 504, 506

read with Section 34 of the Indian Penal Code, the applicants shall 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. The applicants shall not tamper with the prosecution evidence.

**(R. G. AVACHAT)
JUDGE**

fmp/-