

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

ANTICIPATORY BAIL APPLICATION NO. 294 OF 2021

Vinayak Sadashiv Wadewale,
Age 60 years, Occ. Agriculture,
R/o. Pethshivni Tq. Palam, Dist.
Parbhani, at present Shikshak
Colony, Palam, Dist. Parbhani.

... **Applicant.**

VERSUS

The State of Maharashtra.
Through Police Station Palam,
District Parbhani.

... **Respondent.**

...

Advocate for the Applicant : Mr. Salunke Sudarshan J.
APP for the Respondent/State : G.L. Deshpande.

CORAM : MANGESH S. PATIL, J.

DATE : 26.04.2021.

PER COURT :

Apprehending arrest in connection with Crime No. 26/2021, registered with Palam Police Station District Parbhani for the offences punishable under Section 307, 504, read with Section 34 of the Indian Penal Code, the applicant is seeking bail in the event of his arrest.

2. The applicant and his son were having serious grudge against the villagers since the applicant was unable to win the election. It is alleged that both of them were harassing the villagers on that count. It is then alleged that on 05.02.2021 during evening hours both of them came in front of the shop of the informant and abused him while attributing him to be the cause of their defeat. When he started questioning them as to the reason for hurling abuses they asked him to come out of the shop and thereafter they assaulted him. The applicant is stated to have hit him with a stone on the

forehead causing grievous injury whereas the applicant's son is stated to have tried to strangulate him by sitting on his chest.

3. The learned advocate for the applicant would submit that the applicant's son has already been arrested and released on regular bail. He would further point out that the applicant is being implicated with a serious charge of attempting to kill the informant. Even according to prosecution he was not carrying any weapon much less which would have been sufficient in the ordinary course to cause death. He would further submit that accepting the allegations in the F.I.R., it is only when the informant had come out of his shop that the two sides had indulged in some sort of altercation in which the applicant is stated to have picked up a stone lying nearby and having hit the informant on forehead. Accepting these allegations as it is, no intention much less of causing death is attributable. He would further submit that the informant had not sustained any serious injury. The incident had taken place without any premeditation. There are no criminal antecedents. The applicant is ready to cooperate the Investigating officer and he may be granted anticipatory bail subject to usual conditions.

4. Learned A.P.P. opposes the application. He submits that there is enough material to reveal that some incident had taken place in which the applicant had hit the informant with a stone on the vital part of the body. Going by the papers of the investigation though the injury was apparently simple, a surgery was advised. There are witnesses to the incident to corroborate the prosecution version. At this juncture no inference be drawn exculpating the applicant. There was a strong motive and specific role is attributable to him in commission of a serious crime. His custodial interrogation is imperative and the application be rejected.

5. I have carefully gone through the papers of investigation. It is trite that it is not always necessary that the injured should have sustained some grievous injury in order to attract the charge of attempt to murder

punishable under Section 307 of the Indian Penal Code. However, simultaneously, this proposition will have to be considered in a given set of facts and circumstances like the matter in hand where such an enquiry is permissible.

6. According to the allegations, the applicant was holding a grudge against the villagers because of his defeat in the election. He had come to the spot with his son and had started questioning the injured as to why he had not supported them during the election. It is thereafter that the informant is stated to have come out of his shop, some altercation had taken place during which the applicant is stated to have picked up a stone lying nearby and hit it on the forehead of the informant.

7. Going by the papers of the investigation, one cannot find out the description of the stone to draw a *prima facie* inference as to whether it could have been used as a weapon to cause death in the ordinary course. It is in view of such peculiar state of affairs that even the injury sustained by the informant would be relevant. There is no record to show that he had sustained any grievous injury.

8. Considering all the aforementioned facts and circumstances, when apparently there was no predetermination, no weapon was being carried, when the stone has also been recovered from the spot coupled with the fact that no grievous injury was sustained by the informant, the applicant deserves to be granted anticipatory bail.

9. The Application is allowed. In the event of arrest of the applicant Vinayak Sadashiv Wadewale in connection with Crime No. 26/2021, registered with Palam Police Station District Parbhani for the offences punishable under Section 307, 504, read with Section 34 of the Indian Penal Code, he shall be released on bail on his executing personal recognizance for an amount of Rs. 20,000/- (Rs. Twenty Thousand only) and furnishing a solvent surety in the like amount, subject to following conditions :

(a) He shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate the him.

(b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

mkd/-