

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

**906 ANTICIPATORY BAIL APPLICATION NO.232 OF 2021
WITH APPLN/767/2021**

1) SAGAR S/O. KAMLAKAR PATIL
2) RUSHI S/O. DILIP MOHOLKAR
VERSUS
THE STATE OF MAHARASHTRA

with
ANTICIPATORY BAIL APPLICATION NO.302 OF 2021

1) DATTA S/O. MALLIKARJUN MOHOLKAR
2) NAWNATH S/O. MALLIKARJUN MOHOLKAR

...
Advocate for Applicants : Mr. Venjane Tukaram M.
APP for Respondents/State : Mr. V.M. Kagne
...

CORAM : M.G. SEWLIKAR, J.
DATE : 23.04.2021

PC:-

All these three applications are being disposed of by common order as they arise out of the same offence.

2. Facts leading to these applications are that the informant was arrested on the charge of murder of brother of accused-Rushi Moholkar. He was released on bail. The applicants got enraged and on the day of incident i.e. on 02.02.2021 at 11 pm when the informant, his friends were having dinner at Maitree Dhaba applicants went there. Applicant No.1-Datta

Moholkar (Application No.302 of 2021) took out an iron rod from the car and delivered a blow of it on the head of the informant. Other applicants beat him with kicks and fist blows on abdomen and other parts of the body. The informant was shifted to the hospital.

3. Heard Shri Venjane learned counsel for the applicants and Shri VM. Kagne learned APP for the State.

4. Learned counsel Shri Venjane submitted that the informant did not sustain any grievous injury. He submitted that the informant was released on bail in the year 2017. There was no occasion for the applicants to assault the informant in the year 2021 for the release of the informant on bail in the year 2017. He submitted that this clearly shows that a false FIR is lodged against the applicants. He further submitted that except applicant-Datta no other accused is alleged to have used any weapon during the commission of the offence. According to Shri Venjane, the only allegation against the applicants Rushi and Sagar is that they delivered kicks and fist blows to the informant. He submitted that no overt act is alleged against the applicant-Nawnath. He, therefore, prayed to release the applicants on anticipatory bail.

5. Shri Kagne submitted that all the applicants have criminal background. He submitted that applicant-Datta delivered a blow of iron rod

on the head of the informant and medical certificate bears testimony to this. He submitted that having regard to criminal background of the applicants none of them deserve to be released on bail. He, therefore, prayed for dismissal of the applications.

6. So far as applicant-Nawnath is concerned, FIR and even police papers do not indicate that any overt act is alleged against applicant-Nawnath. Therefore, his custodial interrogation does not appear to be necessary at all. So far as other applicants are concerned this Court is not inclined to release the other applicants on anticipatory bail. Shri Venjane learned counsel for the applicants submits that he would like to withdraw the applications of applicants-Sagar Patil, Rushi Moholkar and Datta Moholkar. He submitted that seven days time be granted to them to surrender themselves before the Court. In view of this following order is passed:

ORDER

- I) Application No.302 of 2021 is allowed only to the extent of applicant no.2-Nawnath Moholkar.
- II) He be released on PR bond of Rs.20,000/- with one solvent surety in the like amount in the event of his arrest in connection with Crime No.30 of 2021 registered with Nilanga Police Station,

District Latur for the offences punishable under Section 307, 323, 504, 506 read with Section 34 of the I.P.C.

- III) Applications of Sagar Patil, Rushi Moholkar, Datta Moholkar are allowed to be withdrawn. They shall surrender before the concerned J.M.F.C. within seven days. Till then applicants-Datta, Rushi and Sagar shall not be arrested by the police. Police are at liberty to arrest the accused if they do not surrender within seven days from today.
- IV) Criminal Application No.767 of 2021 for assist to PP is also disposed of.
- V) Parties to act upon authenticated copy of this order.

[M.G. SEWLIKAR, J.]