

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.314 OF 2021

Subhash s/o Motiram Maske ... **APPLICANT**

VERSUS

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

.....
Shri P.P. More, Advocate for applicant
Mrs. P.V. Diggikar, 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 applicant is apprehending arrest in connection with crime No.0196/2020, registered at Latur Rural Police Station for the offence punishable under Sections 307, 452, 143, 144, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and Section 25(1-B)(b) of the Arms Act.

2. The First Information Report (F.I.R.) relating to the incident dated 5/11/2020 has been lodged on the next day i.e. on 6/11/2020. It is alleged in the F.I.R. that, the

informant was busy in agricultural operations. His elder brother Ramchandra made phone call to him and asked to come home as there was some quarrel at home. The informant, therefore, came home. Mother of one Balaji Mhaske was seen abusing the father and brother of the informant. The informant asked her not to abuse. She then went away. The informant learnt that there was some quarrel amongst the children in front of the house of the informant. Son of Balaji Mhaske was amongst those children. Thereafter the informant again left the house for the agricultural field. On way, Balaji Mhaske intercepted him and was about to assault with a knife. His mother informed him that the informant was not involved in the crime.

3. It is further alleged that, the informant was present at Patil Chowk of the village by 7.00 p.m. Mhaskes i.e. Balaji, Umesh, Subhash (present applicant), Amol, Pappu; Ganesh Nadagude, Ganesh Sonkamble, Akash Madne, Ajay Shivaji Mane, Govind Shivaji Gaikwad and some others came together. Amol was armed with a sword. Others had sticks with them. Some of them entered the house of the informant. The informant, therefore, rushed to his home. Balaji, Umesh, Subhash assaulted the informant with sticks.

Amol assaulted him with a sword. The blow fell on his hand as it was raised to ward off the blow on the head. The informant rushed and took shelter at the house of Dushant Chothwe. The informant contacted his wife on cell phone to learn that she was assaulted on her head with stick. The informant, therefore, went home. His brother told him that Balaji assaulted his wife on her head with stick. Umesh assaulted her with stick blows.

4. Shri P.P. More, learned counsel for the applicant would submit that, no overt act has been attributed to the applicant. Some of the co-accused have been enlarged on regular bail. The applicant has not been keeping well. He is unable to walk without a walker. He, therefore, urged for grant of the application.

5. The learned A.P.P. would, on the other hand, submit that, it was an attempt on the life of the informant. The applicant is vicariously liable in view of Section 149 of the Indian Penal Code. The applicant has also participated in the assault. The applicant, therefore, does not deserve anticipatory bail.

6. What has been alleged in the F.I.R. has already been narrated hereinabove. It appears therefrom that the applicant was in the group of the assailants. He is alleged to have assaulted the informant with stick. There are general allegations that the applicant along with Balaji and Umesh assaulted the informant with stick. No particular overt act has thus been attributed to the applicant. Section 307 of the Indian Penal code has been invoked for the assault made by Amol Mhaske on the informant with a sword.

7. A bunch of medical papers have been produced on record to indicate the applicant to have not been keeping well. It is informed that, he is unable to walk without a walker. The case of the applicant to have not been keeping well inclines me to grant him the relief. The allegations in the F.I.R. have also been considered for granting the relief. Hence the order :-

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicant in

connection with crime No.0196/2020, registered at Latur Rural Police Station for the offence punishable under Sections 307, 452, 143, 144, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code and Section 25(1-B)(b) of the Arms Act, the applicant shall be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) The applicant shall appear before the investigating officer as and when required. The applicant shall not tamper with the prosecution evidence.

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

fmp/-