

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

ANTICIPATORY BAIL APPLICATION NO.355 OF 2021

1] GOPICHAND BUDHA PATIL
2] BARKU BUDHA PATIL
3] BHIKAN BUDHA PATIL
4] ASHUTOSH GOPICHAND PATIL @ DEORE
5] SAGAR BARKU PATIL @ SAGAR HARISHCHANDRA DEORE
6] AMOL HARISHCHANDRA PATIL
7] KISHOR BHIKAN PATIL

VERSUS

THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sandip R. Sapkal, Senior Advocate
APP for Respondent/State: Mr. V.M. Kagne
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CORAM : MANGESH S. PATIL, J.

DATE : 03.05.2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicants are apprehending arrest in connection with Crime No.43/2021 registered with Devpur Police Station, Tq. Devpur, Dist. Dhule for the offences punishable under Sections 143, 147, 148, 149, 326, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. I have heard both the sides i.e. learned senior advocate for the applicants and the learned APP and perused the papers of the investigation.

3. Without indulging into any discussion touching the facts of the

matter suffice for the purpose to note that the only non-bailable offence being charged against the applicants is Section 326 of the Indian Penal Code. Needless to state that in order to constitute that offence, it is imperative that the victim must have sustained a grievous injury. The papers of the investigation would show that there are two injured persons. Prashant Vishwanath Patil is reported to have sustained only simple injuries. Avinash Vishwanath Patil is stated to have sustained *inter alia* a suspected fracture. However, in the concluding part the concerned Medical Officer of the Private Hospital has opined that it appears to be a non-grievous injury. Since there is no other medical record collected by the Investigating Officer except these two certificates, in the absence of any grievous injury sustained by any of the two victims, it would be serious case where there would be a legitimate doubt about the offence being one punishable under Section 326 of the Indian Penal Code.

4. There appears to be a civil dispute between the two sides pending before the Civil Court touching an immovable property. There is a cross complaint as well. Coupled with the aforementioned state of affairs, there is no material to show that either the informant or anybody else have sustained any grievous injury so as to constitute the offence punishable under Section 326 of the Indian Penal Code. It is, therefore, a fit case where anticipatory bail deserves to be granted.

5. The Application is allowed. In the event of arrest of the applicants in connection with Crime No.43/2021 registered with Devpur

Police Station, Tq. Devpur, Dist. Dhule for the offences punishable under Sections 143, 147, 148, 149, 326, 323, 504, 506 read with Section 34 of the Indian Penal Code, they shall be released on bail on their executing personal recognizance for an amount of Rs.15,000/- each and furnishing a solvent surety in the like amount each subject to following conditions:

- a) They shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.
- b) They shall not tamper the evidence or influence the witnesses in any manner.

(MANGESH S. PATIL, J.)

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