

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

**ANTICIPATORY BAIL APPLICATION NO.440 OF 2021
WITH APPLN/1064/2021 IN ABA/440/2021**

1] SHAILESH RAMCHANDRA WARADE

2] PRADIP EKNATH WARADE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Deshmukh Bhausaheb S.

APP for Respondent/State: Mr. V.S. Badakh

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CORAM : M.G. SEWLIKAR, J.

**DATE : 21st May, 2021
(VACATION COURT)**

PER COURT :

By this application the applicants are seeking anticipatory bail.

2. The allegations against the applicants are that on 29.03.2021 at about 9.30 to 10.00 pm the informant was returning home after watering his field. He heard some noise at the tin shade of applicant No.1 Shailesh Warade, therefore, he stopped his motorcycle there. Thereupon, application No.1 Shailesh Warade, applicant No.2 Pradip Warade, and Nitin Warade came there. They were drunk. Applicant No.1 demanded from the informant as to why informant

stopped there and threw a stick at the informant which hit the motorcycle. When informant was proceeding further, applicant No.2 Pradip kicked the motorcycle. Informant fell down. Nitin Warade came there abusing him. Nitin Warade stabbed the informant in the abdomen. The informant was shifted to the hospital. During hospitalization FIR came to be registered, on the basis of which offence under Sections 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code came to be registered.

3. Heard Shri Bhausaheb Deshmukh learned counsel for the applicant, learned APP for the State Shri Badakh and Shri Thote learned counsel assisting APP.

4. Learned counsel Shri Deshmukh submitted that entire allegations are against accused Nitin Warade. Against applicant No.1 Shailesh, the only allegation is that he threw the stick which hit the motorcycle. Allegation against applicant No.2 Pradip is that he kicked the motorcycle because of which the informant fell down. He submitted that nothing is to be recovered from the applicants. Informant has been discharged from the hospital. Custodial interrogation of the applicants is not necessary. Therefore, they shall be released on anticipatory bail.

5. Learned APP submitted that allegations against the applicants are serious in nature. Applicant No.1 threw stick at the motorcycle whereas the applicant No.2 kicked the motorcycle due to which the informant fell down. He submitted that having regard to the serious allegations, applicants cannot be enlarged on anticipatory bail.

6. When the learned counsel for the applicants realized that this Court was not inclined to grant any relief to applicant No.1, he sought permission to withdraw the application to the extent of applicant No.1. Permission was accordingly granted.

7. So far as applicant No.2 is concerned the only allegations against applicant No.2 is that he kicked the motorcycle because of which the informant fell down. On perusal of the police papers, it appears that except these allegations there is no evidence against applicant No.2. Nothing is to be recovered from applicant No.2. Grievous injury was caused by Nitin Warade and not by applicant No.2. In this view of matter, custodial interrogation of applicant No.2 is not necessary. Hence, I am inclined to release applicant No.2 on anticipatory bail.

ORDER

- a. Application is partly allowed.

- b. Applicant No.2, in the event of his arrest in connection with Crime No.108/2021 registered with Gondi Police Station, Tal. Ambad, Dist. Jalna for the offence punishable under Sections 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code, be released on PR Bond of Rs.50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount, on condition that he shall not interfere in the investigation, shall not pressurize the witnesses, shall not enter the village Vadiramasgaon till filing of the charge-sheet and on condition that he shall attend the police station concerned as and when called upon to do so by the Investigating Officer.
8. Application in respect of the applicant No.1 is disposed of as withdrawn.
9. Criminal Application No.1064/2021 for assist to APP is allowed and disposed of.

(M. G. SEWLIKAR, J.)