

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

ANTICIPATORY BAIL APPLICATION NO.460 OF 2021

**ROHIDAS SOPAN KENDRE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Applicant : Mr. Gaikwad Anil M.
APP for Respondent/State: Mr. S.N. Morampalle
...

CORAM : MANGESH S. PATIL, J.

DATE : 07.06.2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure in connection with Crime No. 32/2021 registered with Kandhar Police Station, District Nanded for the offence punishable under Sections 307, 326, 323, 336, 143, 147, 148 and 149 of the Indian Penal Code.

2. In sum and substance the allegations as can be discerned from the papers of the investigation are to the effect that the accused are related *inter se*. The applicant and the other accused were having a grudge against the accused No.6 because of some village politics. The informant and her husband run a shop. Injured Nagorao had come to the shop to fetch tobacco. Applicant and the other accused Digambar arrived there and assaulted Nagorao on the head with a stick. In the meantime even the other accused arrived there and started pelting stones on each other. One such stone also hit the informant causing her bleeding injury. The report was

lodged and the offence was registered.

3. The learned advocate for the applicant would submit that there was no motive for the applicant to assault the informant. The dispute was amongst the accused persons *inter se*. Assuming that she had sustained injury during the stone pelting, Section 307 and 326 of the Indian Penal Code would not be attracted *qua* her. He would further submit that since it was a melee, even the applicant sustained serious injury and had to be medically treated. Though it is being alleged that he had used a stick, it is unlikely to be in his custody since he was immediately shifted from the spot. There are no criminal antecedents. He is ready to cooperate the Investigating Officer. Other accused have been granted anticipatory bail by the Sessions Court. There is no specific and special reason why the relief should be refused to the applicant.

4. The learned APP opposes the application. He submits that the offence is serious. There is no dispute as to the identification. Without there being any animosity the informant has specifically alleged about the applicant having assaulted Nagorao on the head with a stick. There is an injury certificate which corroborates her version. At this juncture this much of material is enough to reveal complicity of the applicant in carrying out the assault which would not have happened but for premeditation. It being a case of formation of an unlawful assembly, custodial interrogation of the applicant is necessary. The Application be rejected.

5. I have carefully gone through the papers of the investigation.

As can be appreciated, there is no bad blood between the informant and her family on one hand and the applicant and the other accused on the other. Obviously she has not attributed any motive to them. However, simultaneously one cannot forget the fact that she has specifically narrated the incident and at this juncture it will have to be assumed that she is coming with a truthful disclosure of the events that had taken place at her shop.

6. The informant has specifically named the applicant and has alleged about he having assaulted Nagorao on head with a stick. The Injury Certificate issued by the Doctor of one Morya Hospital clearly corroborates her version. It clearly mentions about Nagorao having sustained head injury and had reached the Hospital with other symptoms associated with head injury like vomiting and giddiness. Even his wound was sutured and a fracture was suspected.

7. If such is the state of events, when apparently there is no reason for the informant to falsely implicate the applicant when he has used a stick to carry out assault on the vital part of the body of Nagorao, his involvement in the crime being apparent on the face of the record, his custodial interrogation is certainly necessary.

8. The Application is rejected.

(MANGESH S. PATIL, J.)