

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

ANTICIPATORY BAIL APPLICATION NO.488 OF 2021

CHANDRAKANT ANANDRAO KALYANKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Panditrao S. Anerao
APP for Respondent/State: Mr. S.P. Deshmukh
...

CORAM : MANGESH S. PATIL, J.

DATE : 07.06.2021

PER COURT :

The applicants are seeking bail in the event of their arrest in connection with Crime No.58/2021 registered with Chudawa Police Station, District Parbhani for the offence punishable under Sections 326, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the brother of the main accused Kailash alleging that on account of a dispute between them regarding partition Kailash along with present applicant who happens to be his brother-in-laws (brothers of wife) and the applicant No.4 related to him being son of a brother-in-law, assaulted the informant with sticks and iron rod and in that process fractured his tooth and caused other injuries.

3. The learned advocate for the applicants would submit that applicants are being falsely implicated being related to accused Kailash. No grievous injuries have been sustained. Nothing is to be recovered from the

applicants. Already Kailash has been granted anticipatory bail by the Sessions Court, therefore, the applicants are entitled to anticipatory bail on merits as also on the ground of parity.

4. The learned APP opposes the application. He submits that the offence is serious. There was a strong motive. The assault has been carried out in a systematic manner. There was premeditation. It is a case of dislocation/fracture of tooth which is covered by the definition of grievous hurt. Involvement of the applicant in commission of the crime being apparent on the face of the record and since weapons are to be recovered, the Application be rejected.

5. I have carefully gone through the papers of the investigation. True it is that the incident is alleged to have occurred on account of a dispute between the brothers *inter se* i.e. the informant and main accused Kailash. It is also true that the learned Additional Sessions Judge has granted anticipatory bail to Kailash.

6. But then a careful perusal of the order passed by the learned Additional Sessions Judge would reveal that Kailash has been granted anticipatory bail for the sole reason that nothing was to be recovered from him, whereas, the request of the applicant was rejected on the ground that the weapons were to be recovered from them. *Ex facie*, the order passed by the learned Additional Sessions Judge is devoid of any consideration on merits. It cannot be said that the learned Judge has considered the merits of the matter while granting bail to Kailash. Therefore, irrespective of the fact

that the State has challenged that order or otherwise, in my considered view, the ground of parity cannot be considered in peculiar state of affairs.

7. Going by the merits, apparently there was a strong motive for the accused persons. There was a dispute pertaining to the partition. Weapons were carried and the informant was assaulted with an iron rod and stick. It clearly implies that there was prior meeting of mind and the assault was carried out designedly.

8. The informant did sustain four injuries including fracture of a tooth. The weapons are to be recovered. There is direct involvement of the Applicants in commission of the crime.

9. The Application is rejected.

(MANGESH S. PATIL, J.)