

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.486 OF 2021

Ravindra s/o Deoram Mhaske

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Shri N.S. Ghanekar, Advocate for applicant
Shri S.W. Munde, A.P.P. for respondent
.....

**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.162/2021, registered at Sangamner City Police Station, District Ahmednagar for the offence punishable under Sections 307, 326, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 4/25 of the Arms Act.

2. The First Information Report (F.I.R.) has been

lodged by victim himself on 23/3/2021 in Shelke Hospital. It has been alleged in the F.I.R. that the informant had a quarrel with one Dhiraj and Amit Rahatekar six months before the alleged incidence. Complaints had been lodged in relation to the said quarrel with concerned police station. Since then, both Dhiraj and Amit used to stare angrily at the informant. On 22nd March by 9.00 p.m., the informant along with his friends Akshay and Akash were at the shop of Akshay. By 10.00 p.m., Akshay closed the shop. Shubham Shinde (co-accused) came there. He questioned the informant what was he doing there. Shubham suddenly caught-hold of the informant and made him fall to the ground. He asked the informant not to confront Amit. Meanwhile, Amit, Dhiraj, Pankaj, Ravi (applicant herein), Anil, Pappu and 2 - 3 unknown persons came together. Amit was armed with a sword. An iron rod was with Dhiraj. Others were also armed with iron rods. Amit assaulted the informant with sword. The blow fell on his hand, causing fracture. The applicant and Shubham caught-hold of the informant. Dhiraj, Pappu, Amit and Pankaj assaulted the informant with iron rod. The others threatened the informant with dire consequences and then all of them went away.

3. Heard. Shri Ghanekar, learned counsel for the

applicant would submit that, had the accused persons intended to eliminate the informant, there would have been number of injuries on the person of the informant. The applicant has not been attributed with any assault. He is said to have facilitated the assault. The learned counsel would urge for grant of the application considering the nature of involvement in the alleged offence.

4. The learned A.P.P. would, on the other hand, submit that, it was a murderous assault. The applicant is vicariously liable. For the purpose of investigation, custody of the applicant is required. He, therefore, urged for rejection of the application.

5. About 9 to 10 persons have allegedly assaulted the informant. The informant suffered the following injuries :-

- (1) Fracture over right ulna shaft displaced.
- (2) Compound fracture shaft tibia on left leg.
- (3) C.L.W. over right leg 2 x 2 cm.

6. The injuries were grievous in nature. The applicant has not been attributed with any overt act in the nature of an assault. The applicant allegedly caught-hold of

the informant and others beat him up. The assault on the life of the informant has been attributed to Amit. Without going into the veracity of the allegations in the F.I.R., suffice it to say that, no overt act in the nature of any assault has been attributed to the applicant. Nothing is to be recovered from him. In the factual backdrop, his custodial interrogation is not warranted. I am, therefore, inclined to grant the application. Hence the order :-

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicant in connection with Crime No.162/2021, registered at Sangamner City Police Station, District Ahmednagar for the offence punishable under Sections 307, 326, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 4/25 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/-