

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

ANTICIPATORY BAIL APPLICATION NO.570 OF 2021

1] AMOL RAMNATH SALUNKE
2] SUNITA RAMNATH SALUNKE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Jadhav Satej S.
APP for Respondents: Mr. V.S. Badakh

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CORAM : MANGESH S. PATIL, J.

DATE : 01.07.2021

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.152/2021 registered with Newasa Police Station, District Ahmednagar for the offence punishable under Sections 326, 341, 323, 143, 144, 147, 148, 149, 504, 506 of the Indian Penal Code.

2. In yet another round of complaints and counter complaints between the family of the informant on one hand and that of the applicants on the other, on account of a long standing civil and criminal dispute, the genesis of which is right to fetch water from the well, the informant alleges that he was assaulted by the applicants and the other three accused, wherein, the main accused is stated to have assaulted him with a spade whereas applicants are alleged to have assaulted him with sticks.

3. I have heard the learned advocate for the applicants as also the learned APP and perused the papers of the investigation.

4. As can be seen, it is the offence punishable under Section 326 of the Indian Penal Code which is the only non-bailable offence. However, the papers of the investigation do not reveal any Injury Certificate/MLC having been obtained by the Investigating Officer to ascertain if really the informant had sustained some grievous injury so as to attract Section 326 of the Indian Penal Code.

5. If such is the state of affairs, particularly when the applicants have been granted ad-interim anticipatory bail by the order dated 04.06.2021 with a condition *inter alia* to remain present before the concerned Investigating Officer on every Monday and Thursday and there are no allegations about them having disobeyed the condition or the Investigating Officer having not been able to interrogate them, the applicants deserve to be granted anticipatory bail, more so when the present FIR has been lodged after six days of the incident that too after the applicant No.2 filed the FIR in Crime No.151/2021 in respect of an incident which occurred around the same time and place.

6. The Application is allowed. The ad-interim anticipatory bail granted by the order dated 04.06.2021 stands confirmed with the same terms and conditions with a clarification that the condition regarding attendance shall cease on filing of a final report under Section 173 of the Code of Criminal Procedure.

(MANGESH S. PATIL, J.)

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