

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.577 OF 2021

- 1] Sandip Madhukar Sapkale,
Age : 31 years, Occ.: Labour,
R/o 40 bunglo, Limpus Club,
Bhusawal, Dist. Jalgaon
- 2] Vishal Prabhakar Sapkale,
Age : 26 years, Occ :Education,
R/o : Dr. Ambedkar Nagar,
Bhusawal, Dist. Jalgaon. ... Applicants.

VERSUS

The State of Maharashtra
(Through Bhusawal City Police
Station, Bhusawal, Dist. Jalgaon) ... Respondent.
...

WITH

ANTICIPATORY BAIL APPLICATION NO.612 OF 2021

Ganesh Ashok Sapkale,
Age : 31 years, Occ.: Labour,
R/o Kawade Nagar,
Railway Filter House, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon. ... Applicant.

VERSUS

The State of Maharashtra
(Through Investigation Officer,
City Police Station, Bhusawal,
Tq.Bhusawal, Dist. Jalgaon) ... Respondent.

...
Advocate for the Applicants : Mr. Nima R. Suryawanshi h/f.
Mr. S. S. Patil (in ABA 577/2021)

Advocate for the Applicant : Mr. K. M. More
(in ABA No. 612/2021)
APP for the Respondent – State : Mr. V. S. Badakh

CORAM : V. G. BISHT, J.

DATE : 30th AUGUST, 2021

PER COURT :-

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.111 of 2018, registered with Bhusawal City Police Station, Tq. Bhusawal, District Jalgaon for the offences punishable under Sections 307, 452, 436, 143, 147, 148, 149, 427, 323, 504 and 506 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 09.12.2018 when the informant alongwith his family members was sleeping in his house at about 10.00 p.m. to 10.30 p.m., he heard the loud sound of knocking of door from the outside. All the family members got up and found that the door was broken and there were 40 to 50 persons, who were exhorting loudly that the informant and his family members be beaten. The prosecution alleges that accused Narendra alias Bala Arun More, Samadhan alias Morya Nikam, Shubham Shashikant Soyankar, Sandip Madhukar Sapkale (applicant), Ganesh Ashok Sapkale

(applicant), Rekha Vijay Kharat, Bala alias Vijay Sarang Pawar, Balu Tayade, Sahil Balu Tayade and his two sons, Vishal Prabhakar Sapkale (applicant) and others started beating the family members by means of fist and kick blows. One accused, namely, Samadhan alias Morya Nikam assaulted informant on his forehead by means of wooden log and others also damaged the household articles.

3. Mr. Nima R. Suryawanshi, learned counsel holding for Mr. S. S. Patil, in ABA No. 577/2021 and Mr. K. M. More, learned counsel in ABA No. 612/2021 for the applicants, submit that as far as the role of present applicants are concerned, they had allegedly beaten by means of fist and kick blows and therefore their custodial interrogation is not at all necessary. Moreover, the applicants are permanent residents of the village having landed property and, therefore, would not flee from justice. They are ready to abide by all the terms and conditions which may be imposed by the Court upon them.

4. Mr. V. S. Badakh, learned APP, on the other hand, would submit that not only the applicant alongwith other accused formed an unlawful assembly but also with a view to kill the informant and family members assaulted them apart from damaging the household articles. The investigation is going on

and, therefore, the present application should not be allowed.

5. On careful reading of the First Information Report, it is seen that the main allegation is against the accused Samadhan, who had allegedly given a blow of wooden log on the forehead of the informant. Rest of the accused and present applicants had allegedly beaten informant and his family members by means of fist and kick blows. There is nothing on record to suggest that the family members, who were allegedly beaten by fist and kick blows sustained life threatening injury. Rather the learned APP submits that nature of injuries suffered by the family members of the informant are simple in nature, as far as having regard to the role of present applicant.

6. In view of above, I do not find any necessity of custodial interrogation of the present applicants. Their applications deserve consideration.

7. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants - Sandip Madhukar Sapkale, Vishal Prabhakar Sapkale and Ganesh Ashok Sapkale herein in connection with Crime No. 111 of 2018, registered with Bhusawal City Police Station, Tq. Bhusawal, District Jalgaon for the offences punishable

under Sections 307, 452, 436, 143, 147, 148, 149, 427, 323, 504 and 506 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only] each, with one or two sureties in the like amount.

- (iii) The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed off.

(V. G. BISHT)
JUDGE

shp/-