

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 606 OF 2021

Ganesh s/o Popat Palve
Age : 31 years, Occ : Agri.
R/o : Balewadi, Tq. Nagar,
Dist. Ahmednagar.

... Applicant

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Nagar Taluka Police Station
2. The Superintendent of Police
Ahmednagar. ... Respondents.

...
Advocate for the Applicant : Mr. A. S. More
APP for the Respondents – State : Mr. A. V. Deshmukh
...

CORAM : V. G. BISHT, J.

DATE : 02nd SEPTEMBER, 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.192/2021, registered with Ahmednagar Taluka Police Station, District Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 504 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that on 18.04.2021 at about 6.45 p.m. while the informant was sitting in her

courtyard alongwith her husband, accused Anil Popat Palve, Ganesh Popat Palve (applicant) and other accused came armed with axe, iron rod and stones and started abusing to informant's husband. When the said act of accused was resisted, it is alleged, accused Anil Popat Palve gave a blow of an axe on the head of informant's husband who fell down in the full of blood. Applicant also gave blow of iron rod on legs, waist and hands of the victim. The informant raised commotion and, therefore, her sons and in-laws came out of the house and they were also assaulted by other accused.

3. Mr. More, learned counsel for the applicant, submits that as far as the allegation against the applicant is concerned, the applicant allegedly had assaulted the victim by means of iron rod and except that there is nothing against him. According to learned counsel, the alleged injury sustained by the victim was of simple nature and, therefore, there is no necessity of custodial interrogation.

4. As against above, Mr. Deshmukh, learned APP for the Respondent - State, on the other hand, opposed the submissions and submitted that the applicant alongwith other accused had not only formed an unlawful assembly but had also assaulted victim and others by means of dangerous

weapons like axe, iron rod and stones. Investigation is in progress and, therefore, the present application needs to be rejected.

5. Although it is alleged that the applicant had assaulted the informant's husband, namely, Babasaheb Palve on his legs, waist and hands by means of iron rod but the Injuries Certificate produced on record by the learned APP would show otherwise. The injuries noted in the said certificate were found on left frontal region and over right eye. It is not the case of informant that applicant had even assaulted on the head or over the right eye by means of iron rod. The Medical Certificate nowhere shows that the husband of informant had sustained any injury on his legs, waist or hands as is alleged in F.I.R.. Thus, *prima-facie* the applicant has made out a case for consideration.

6. For the aforesaid reasons, I am inclined to allow the application. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant – Ganesh s/o Popat Palve herein in connection with Crime No.192/2021, registered with Ahmednagar Taluka Police Station, District Ahmednagar for the offences punishable under Sections 307, 143, 147, 148, 149, 504 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on

bail on his furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only], with one or two sureties in the like amount.

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

(V. G. BISHT)
JUDGE

shp/-