

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

**ANTICIPATORY BAIL APPLICATION NO. 653 OF 2021**

1. Ashok s/o Gangadhar Kokate  
Age : 45 years, Occu : Agricultural,  
R/o : Kangoni, Tq. Newasa,  
Dist. Ahmednagar.
  2. Dnyaneshwar Ashok Kokate  
Age 22 years, Occu. Agricultural,  
R/o Kangoni, Tq. Newasa,  
Dist. Ahmednagar.
  3. Ganesh Ashok Kokate  
Age 26 years, Occu : Agricultural,  
R/o Kangoni, Tq. Newasa,  
Dist. Ahmednagar.
- ... Applicants  
(original accused)

VERSUS

The Police Inspector,  
Police Station, Shani Shingnapur,  
Tq. Newasa, Dist. Ahmednagar. ... Respondent.

...  
Advocate for the Applicants : Mr. R. B. Temak  
APP for the Respondent – State : Mr. N. T. Bhagat  
...

**CORAM : V. G. BISHT, J.**

**DATE : 02<sup>nd</sup> 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. 0023/2021, registered with Police Station Shani Shingnapur,

Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 323, 324, 326, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. Prosecution case in short is that on 22.12.2020 at about 12.30 p.m. all the applicants assaulted on his left hand and head by means of stick over the issue of using way in the field and as also adoption of son by informant.

3. Mr. Temak, learned counsel for the applicants, submits that there is unexplained delay of more than two months in lodging the First Information Report. Moreover, the alleged weapons, namely, sticks have already been seized by the police which was produced by none other than the informant herself. In such circumstances, the application deserves to be allowed.

4. Mr. N. T. Bhagat, learned APP for the Respondent - State, on the other hand, invited my attention to the investigation papers and would submit that there are witnesses, who support the prosecution case. The Medical Certificate is also there to prove that the informant had sustained injuries. Investigation is in progress and, therefore, the application should not be allowed.

5. It appears that the alleged incident took place on 22.12.2020, however, the F.I.R. came to be lodged on 28.02.2021. I find substance in the submission of the learned counsel for the applicants that the delay is nowhere explained in the F.I.R. certainly there is inordinate delay which has gone unexplained.

6. Similarly, I also find substance in the submission of learned counsel for the applicants that it was informant who produced the sticks upon which the same came to be seized, which is apparent from the police paper which has been produced before me for perusal by learned APP.

7. Coming to Medical Certificate, I find that the informant had sustained contusion, swelling over face caused by means of hard and blunt object and CLW over dorsum of forehead (left). The X-ray showed fracture on left radius and the injury was grievous in nature.

8. Having regard to the fact that there is abnormal delay in filing the F.I.R. and as also the fact that the sticks have already been seized by the police on the production of informant herself, there is no necessity of custodial interrogation.

9. In the circumstance, the application deserves to be allowed. Hence, the following order :

**ORDER**

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants - (1)Ashok s/o Gangadhar Kokate, (2)Dnyaneshwar Ashok Kokate, (3) Ganesh Ashok Kokate herein in connection with Crime No. 0023/2021, registered with Police Station Shani Shingnapur, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 323, 324, 326, 504, 506 read with Section 34 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/-