

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

**924 ANTICIPATORY BAIL APPLICATION NO.628 OF 2021
WITH
CRIMINAL APPLICATION NO. 1426 OF 2021
IN
ABA/628/2021**

1. Pyarelal s/o Nandulal Shinde,
Age; 23 years, Occ; Labour,
R/o; Pirbawada, Tq. Phulambri,
Dist. Aurangabad.
2. Birjilal s/o Nandulal Shinde,
Age; 26 years, Occ; Labour,
R/o; Pirbawda, Tq. Phulambri
Dist. Aurangabad.

...Applicants

VERSUS

The State of Maharashtra
Through Wadodh Bazar Police Station,
Tq. Phulambri, Dist. Aurangabad.

...Respondent

...

Advocate for Applicants : Mr. Gore Ravindra Vitthal and Mr. Bodkhe
Chandrakant V.

APP for Respondent-State : Mr. V.S.Badak

Advocate for Complainant : Mr. D.S. Patil h/f Mr. M.R. Jadhav (Assist
to learned APP)

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CORAM : SANDEEP K. SHINDE , J.

DATE : 3rd August, 2021.

P. C. :

1. Heard learned counsel for the applicants, learned APP for
the State assisted by learned Counsel for the complainant.

2. Apprehending the arrest in connection of Crime No. 89 of 2021 registered as Wadod Bazar Police Station, District; Aurangabad for the offences punishable under Sections 307, 326, 324, 323, 143, 147, 149, 269, 188, 504 and 506 of Indian Penal Code ('IPC' for short), Section 135 of the Maharashtra Police Act and Section 51 (b) of the Disaster Management Act, the applicants are seeking pre-arrest bail.

3. It is the prosecution case that on 01.05.2021, ten known and four unknown persons held attack on the complainant and others and severally injured them. First Information Report was filed by Sarangdhar Baburao Gadekar. Soon before the alleged attack, grand daughter of one of the assailants had alleged that two relatives of the complainant, using force outraged her sexual modesty, whereafter, on a report filed by her, crime was registered against Ramdas and Sarangdhar Gadekar, who are the near relatives of the complainant herein. Indisputably, complainant and accused are relatives and the dispute between them is pending in the Civil Court. Although, applicants are the relatives of the co-accused, applicants' names were not revealed or disclosed in the First Information Report. In the back drop of the facts stated above, had they been the members of unlawful assembly, when the alleged attack was held their names would have been disclosed. However, they have been

arrayed as an accused, on the statement of witnesses recorded on 03.05.2021. Therefore, a primary evaluation of the facts of the case and the allegations, leads me to infer that there was no reason for the complainant to exclude the names of the applicants at the first instance, while First Information Report was lodged. Therefore, it is to be stated that applicants were impleaded on re-consideration of facts or on second thought. In the circumstances, the alleged complicity of the applicants in the crime was not definite. For these reasons, application is allowed on the following terms :

4. (i) In the event of arrest of applicants No.1. Pyarelal s/o Nandulal Shinde, 2. Birjilal s/o Nandulal Shinde in Crime No. 89 of 2021 registered as Wadod Bazar Police Station, District; Aurangabad for the offences punishable under Sections 307, 326, 324, 323, 143, 147, 149, 269, 188, 504 and 506 of Indian Penal Code ('IPC' for short), Section 135 of the Maharashtra Police Act and Section 51 (b) of the Disaster Management Act, they shall be released on bail on executing P.R. bonds each in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with one or more sureties in the like amount.

(iii) Applicants shall join the investigation as and when required by the Investigating Officer.

5. This application is allowed and disposed of. Consequently, Criminal Application No. 1426 of 2021 for assist to learned APP is also disposed of.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/