

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 776 OF 2021

Sameer Khan s/o Badshah Khan Pathan ...Applicant

Versus

The State of Maharashtra ... Respondent

...

Advocate for the Applicant : Mr. Arun S. Shejwal

APP for the Respondent – State : Mr. N. T. Bhagat

...

CORAM : V. G. BISHT, J.

DATE : 23rd SEPTEMBER, 2021

PER COURT :-

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.0326/2021, registered with Satara Police Station, Aurangabad District Aurangabad for the offences punishable under Sections 326, 324, 323, 504 read with 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 22.06.2021 at about 07.00 p.m. informant's younger brother, namely, accused Badshah assaulted informant by means of an iron rod on his

head and his son, namely, Sameer i.e. applicant and his wife accused Jayada also assaulted informant, his wife and son by means of wooden log. Both of them also slapped them. This incident took place because of fetching of water from an ancestral well. Informant accordingly lodged the report.

3. Mr. Arun S. Shejwal, learned counsel for the applicant, submits that allegation against the present applicant is only to the extent that he had assaulted informant, his wife and son by means of wooden log and as also had slapped. Having regard to this allegation, there is no necessity of custodial interrogation. Moreover, the applicant is a student of B.A. 2nd Year. In such circumstances the present application deserves to be allowed.

4. Mr. N. T. Bhagat, learned APP for the Respondent – State, on the other hand, opposed the submissions by contending that the applicant and his father has assaulted informant and his family members by means of an iron rod and wooden logs. Investigation is in progress. There being no merit in the application, the same is liable to be rejected.

5. I have gone through the injury certificates placed on

record by learned APP. It appears that the informant sustained three injuries, namely, contused lacerated wound on occipital region, blunt trauma on back and right leg. All these injuries were caused by means of hard and blunt object and the nature of injuries was simple. It may not be out of place mention here that as far as the contused lacerated wound found on occipital region is concerned, the same was allegedly caused by means of an iron rod allegedly by accused Badshah and not applicant. Rest of the injuries at the most can be attributed to the role played by the applicant. Similar injuries were found on the person of wife and son of the informant.

6. Having regard to the above discussion and also keeping in mind the injury certificates of the informant and his family members, in my considered opinion, there is no necessity of custodial interrogation. I am, therefore, inclined to allow the application. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant Sameer Khan s/o Badshah Khan Pathan herein in connection with No.0326/2021, registered with Satara Police Station, Aurangabad District Aurangabad for the offences punishable under Sections 326, 324, 323, 504 read with 34 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only), with one

or two sureties in the like amount.

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

(V. G. BISHT)
JUDGE

shp/-