

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

ANTICIPATORY BAIL APPLICATION NO. 814 OF 2021

1. Kashinath s/o Govindrao Gaikwad,
Age : 68 years, Occu. Agri.
2. Motiram s/o Kisan Gaikwad,
Age : 67 years, Occu. Agri.
3. Shivaji s/o Pandurang Gaikwad,
Age : 78 years, Occu.
4. Akshay s/o Shivaji Gaikwad,
Age : 21 years, Occu. Agri.
5. Rajkumar s/o Laxman Gaikwad,
Age : 28 years, Occu. Agri.
6. Anant @ Anil Babasaheb Gaikwad,
Age : 24 years, Occu. Agri.
7. Kirshna @ Suresh s/o Dinkar Gaikwad,
Age : 26 years, Occu. Agri.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....
Mr. A. L. Kanade, Advocate for the applicants
Mr. S. D. Ghayal, APP for respondent / State
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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 10.08.2021
DATE OF PRONOUNCING THE ORDER : 18.08.2021

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. 0137 of 2021, registered with Dharur Police Station, District Beed, for the offences punishable under Section 395 of the Indian Penal Code.

2. On 24.06.2021, in between 10:00 to 10:30 pm, the informant was present in her house along with family members. At that time, all the applicants along with Rajendra Mahadeo Gaikwad, Suresh Sarjerao Gaikwad and Kiran Dinkar Gaikwad armed with sticks, sickle and axe, came to her house and asked informant as to why they had gone against them in the police station. It is alleged by informant that applicant nos. 1 and 2 caught hold of her hairs and applicant no. 3, 6 & 7 along with Akshay and Rajendra started beating brother-in-law of the informant by means of fist and kick blows. Applicant nos. 1 and 2 snatched Mangalsutra and *Pot* (मंगळसुत्र आणि पोत) by showing sickle. Similarly, applicant no. 5 – Rajendra Mahadeo Gaikwad snatched gold chain from the neck of informant's sister-in-law.

3. Mr. A. L. Kanade, learned Counsel for the applicants, would submit that the present applicant no. 5 had lodged FIR bearing Crime No. 134 of 2021 registered with Dharur Police Station, Dist. Beed, on 25.06.2021 for the offence punishable u/s 365, 143, 147, 149, 323, 504, 506 of the IPC r/w 3(2)(v-a), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the husband of the present informant and others and just as a counterblast to the said FIR, the present FIR came to be filed by the informant that too after delay of one day. According to learned Counsel, the applicants are having immovable property. There are no criminal antecedents against them and, therefore, in the circumstances they deserve anticipatory bail.

4. Mr. S. D. Ghayal, learned APP for the respondent / State, would submit that there are specific allegations and in view of the role played by each of the applicants, the investigation is in progress. Recovery of Mangalsutra and gold chain is yet to be made and in such circumstances, the application should not be granted.

5. As far as the enmity between the parties is concerned, the fact is also noted by the learned trial Court while rejecting the

application and while doing so, the learned trial Court had observed that there appears land dispute amongst the informant's husband and others and the applicants and the same is pending.

6. Apart from the above, it is also clear from the record that the present applicant no. 5 has filed a complaint as noted above against the husband of present informant and others. So also, the delay of one day while lodging the FIR in question is nowhere explained. All these facts and circumstances of the case, *prima facie*, indicate that the parties are on inimical terms.

7. As far as recovery of ornaments is concerned, the same can be taken care of by directing the applicants to attend the concerned Police Station and render their cooperation in the investigation. This being so, I am inclined to allow the application. Hence, the following order.

ORDER

- i. In the event of arrest of the applicants herein in connection with Crime No. 0137 of 2021, registered with Dharur Police Station, District Beed, for the offences punishable under Section 395 of the Indian Penal Code, the applicants are directed to be enlarged on bail on their

furnishing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five thousand only] each, with one or two solvent sureties in the like amount.

- ii. The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
- iii. The applicants shall not tamper with the prosecution evidence in any manner.

8. Criminal Application No. 814 of 2021 stands disposed of in the aforesaid terms.

[V. G. BISHT]
JUDGE