

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

ANTICIPATORY BAIL APPLICATION NO. 813 OF 2021

1. Jasbirsing Harbhajansingh Punjabi
Age 41 years, Occu: Business
R/o Hotel Rajendra, Avdhan Shivar,
Mumbai-Agra Highway, Dhule,
Tq. & Dist. Dhule

2. Parvindarsingh Harbhajansingh Punjabi ... **Applicant**
Age 44 years, Occu: Service
R/o House No.A-203, New Sama Road,
Near Jayashri Society, Jasans Residency,
Vemali, Badoda, Gujrat State

VERSUS

The State of Maharashtra, ... **Respondent**
Through Police Inspector,
Mohadi Police Station, Dhule,
District Dhule.

Mr. N. L. Chaudhari, Advocate for the applicants,
Mr. D. R. Kale, Public Prosecutor for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 12th August, 2021.
PRONOUNCED ON : 21st August, 2021

ORDER:

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.48/2021 registered with Mohadi Police Station, District Dhule for the offences punishable under Sections 392, 395, 397, 452, 455, 323, 324, 506, 507, 34 of the Indian Penal Code, 1860.

2. Present applicants are the real brothers of the informant. There are two Hotels of the ownership of late father of the informant in the name of Hotel Rajendra and Hotel Fauji Punjab. On 24.06.2021, while the informant alongwith her manager and the employees were present in Hotel Fauji Punjab, the present applicants armed with sword and gupti alongwith 4/5 Goondas, came and removed monies from the cash counter and important papers. They also beat employees. Thereafter, the applicants went to Hotel Rajendra where the informant's mother and sister were sitting on cash counter. There also, they assaulted the employees and abused mother and sister.

3. Mr. N. L. Chaudhari, learned counsel for the applicants, submits that a Civil Suit is pending in respect of Will and Gift Deed executed by applicants' father. Moreover, the first information report does not show in any manner that the informant or for that matter any of the employees were seriously injured by the applicants. Nor it is clear, though alleged, as to how much monies were removed from the cash counter. For all these reasons, the present applicants deserve pre-arrest bail, argued learned counsel.

4. Mr. D. R. Kale, learned Public Prosecutor, on the other hand, submits that the roles of the present applicants are clearly explained in the first information report and there being no merit in the application, the same is liable to be rejected.

5. I have gone through the copy of the plaint in Regular Civil Suit No. 156/2021 filed by the present applicants against the informant and others. The suit is in respect of partition of properties and declaration that the Will and the Gift Deed executed by late father of the applicants are not binding to the extent of their share. Thus, prima facie, the property in dispute in respect of which the alleged incident took place is very much subject matter of the suit property as well.

6. Secondly, there is nothing in the first information report to suggest whether the applicants had seriously injured the informant, mother and sisters or for that matter any of the employees of the said Hotels. It is also not made clear in the first information report as to how much amount applicants allegedly took away from the counter.

7. In the above premise, in my considered opinion, the applicants have made out a case for consideration.

8. In view of above, the application is allowed.

9. Interim protection granted by this Court on 29.07.2021 is confirmed and is made absolute.

(V. G. BISHT, J.)

JPC