

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 833 OF 2021

(1) Sudarshan s/o Mohan Shinde

(2) Yogesh s/o Gulabsing Pawar

(3) Vishal s/o Bharat Chavan

(4) Abhishek s/o Kumar Pawar ...Applicants

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicants : Mr. Swapnil S. Rath

APP for the Respondent – State : Mrs. V. S. Choudhari

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CORAM : V. G. BISHT, J.

DATE : 20th 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.0172/2021, registered with Purna Police Station, Taluka Purna, District Parbhani for the offences punishable under Sections 326, 436, 452, 323, 427, 504, 506, 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 11.05.2021 as the informant's great grandsons were playing with sand, the informant slapped them lightly. Those boys then complained to their mother. Prosecution further alleges that on the same day at about 08.00 p.m. applicant No. 1 alongwith other accused came in front of the house of the informant. Applicant No. 3 was armed with a sword and remaining applicants were armed with sticks. Applicant No. 3 Vishal then gave a blow of sword on the right knee and shoulder of the informant. Similarly, rest of the accused also assaulted the informant and family members. They were also driven out of house and their house was set on fire and thereby they caused loss of household articles to the tune of Rs. 15,000/-. The informant accordingly filed the complaint.

3. Mr. Swapnil S. Rathi, learned counsel for the applicants, submits that so far as the applicant Nos. 2 to 4 are concerned, they are neither named in the F.I.R. nor any overt act is attributed on their part. According to learned counsel for the applicants, learned trial Court while rejecting the application has observed that the injury suffered by the informant and his family members were simple and despite that the learned trial Court wrongly rejected the application. In such circumstances,

the present application deserves to be allowed, urged learned counsel.

4. Mrs. V. S. Choudhari, learned APP for the Respondent – State, on the other hand, would submit that the investigation is in progress. In such circumstances, there being no merit in the application, the same is liable to be rejected.

5. At the very outset, I may note that as far as the applicant Nos. 2 to 4 are concerned, admittedly their names are not revealed in the F.I.R. Learned APP has also not been able to point out the role played by applicant Nos. 2 to 4. Therefore, on the face of it, applicant Nos. 2 to 4 are straightway liable to be given the benefit of pre-arrest bail.

6. It is alleged that applicant No.1 had assaulted informant on his right knee and shoulder by means of a sword. It may not be out of place to note from the order of the learned trial Court that injury suffered by the informant and his family members were simple in nature. The learned trial Court was also of the opinion that *prima-facie* there is no evidence to attract Section 326 of the Indian Penal Code. This being so, in my considered view, applicant No.1 also deserves the benefit

of pre-arrest bail.

7. In view of above, I pass the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants -
(1) Sudarshan s/o Mohan Shinde, (2) Yogesh s/o Gulabsing Pawar, (3) Vishal s/o Bharat Chavan, (4) Abhishek s/o Kumar Pawar herein in connection with Crime No.0172/2021, registered with Purna Police Station, Taluka Purna, District Parbhani for the offences punishable under Sections 326, 436, 452, 323, 427, 504, 506, 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 not tamper with the prosecution evidence in any manner.
- (iv) Application is accordingly disposed of.

**(V. G. BISHT)
JUDGE**

shp/-