

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

ANTICIPATORY BAIL APPLICATION NO. 835 OF 2021

Shaikh Wasim Shamim Shaikh,
Age : 39 years, Occu. Agril./Member of Grampanchayat,
R/o. Pirbagwadi, Tq. Ghansawangi,
Dist. Jalna.

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

.....
Shri. Ravindra V. Gore, Advocate for the applicant
Shri. N. T. Bhagat, APP for respondent / State
.....

**CORAM : V. G. BISHT, J.
DATE : 12th AUGUST, 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. 0345 of 2021, registered with Ambad Police Station, District Jalna, for the offences punishable under Sections 143, 147, 148, 307, 149, 323, 504 and 506 of the Indian Penal Code.

2. On 29.06.2021, the informant-Police Constable lodged a report with Ambad Police Station alleging therein that, he received a

mobile call from Nazir Patel informing him that his brother Mahendra has been assaulted by some persons in Hotel Nilesh opposite to Ravana Parada Dargah. The informant rushed to the hotel and found his brother unconscious and lying injured. Later on, one Santosh reached there and apprised the informant that Rajkumar Bhujang Pawar had assaulted Mahendra by knife on his head and Vinod Bhujang Pawar assaulted by an iron rod on the head and mouth of Mahendra. When he along with Babalu tried to rescue Mahendra, at that time, Wasim Patel and others assaulted them by fists and kick blows.

3. Shri. Ravindra V. Gore, learned Counsel for the applicant submits that, the allegations against the present applicant is only to the extent that he indulged in kicking and giving fist blows to Mahendra. Although the incident took place on 26.06.2021, the FIR came to be lodged on 29.06.2021 and the delay therefor has not been at all explained by the prosecution. In such circumstances, the learned Counsel for the applicant urged that the present application be allowed.

4. Shri. N. T. Bhagat, learned APP, on the other hand, would submit that the present applicant sharing the common intention along

with the other accused assaulted injured Mahendra. Moreover, his antecedents are also not clear inasmuch as he is facing the trial in respect of the offence committed by him. Thus, for all these reasons there being no merit in the application, the same deserves to be rejected.

5. A careful perusal of the FIR would reveal that, injured Mahendra was assaulted by means of knife and iron tommy by other accused. It is only when Santosh Gaikwad, who informed the informant about the incident and Babalu Shaikh went to rescue of Mahendra, the present applicant and other 3-4 unknown persons beat him and Mahendra, by means of fists and kick blows. Thus, the role attributed to the present applicant is only to the extent of indulging in fists and kick blows. For all this act of applicant and the fact that no custodial interrogation would be required in this regard, I think that it would not be proper to keep the applicant in custody.

6. As far as the pendency of criminal cases against the present applicant are concerned, that fact by itself cannot be the basis for refusal of prayer for bail, if the applicant is otherwise entitled.

7. In the facts and circumstances of the case, I am inclined to allow the present application. Hence, the following order.

ORDER

- i] In the event of arrest of the applicant in connection with Crime No. 0345 of 2021, registered with Ambad Police Station, District Jalna, for the offences punishable under Sections 143, 147, 148, 307, 149, 323, 504 and 506 of the Indian Penal Code, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand only] with one or two solvent sureties in the like amount.
- ii] The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
- iii] The applicant shall not tamper with the prosecution evidence in any manner.

8. Criminal application stands disposed of in the aforesaid terms.

[V. G. BISHT]
JUDGE