

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.843 OF 2021

(1) Samir Gafur Shaikh
(2) Sohel Fayajoddin Shaikh ...Applicants

Versus

The State of Maharashtra ... Respondent
...

Advocate for the Applicants : Mr. M. A. Jahagirdar h/f.
Mr. V. S. Kakade
APP for the Respondent – State : Mrs. V. S. Choudhari
...

CORAM : V. G. BISHT, J.

DATE : 14th 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.I-360/2021, registered with Shevgaon Police Station, District Ahmednagar for the offences punishable under Sections 307, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 12.06.2021 applicant alongwith his brother-in-law and one unknown person came near the informant. Applicant thought that the informant had

published the photograph of his dumper in the newspaper and keeping grudge in mind assaulted by means of wooden log. Applicant's brother in law also gave a blow of an iron rod on right hand of informant and the said unknown person beat informant by means of fist and kick blows. The informant accordingly lodged the report.

3. Mr. M. A. Jahagirdar holding for Mr. V. S. Kakade, learned counsel for the applicants, at the outset, submits that there is delay of 7 days in lodging the First Information Report which is not explained by the prosecution. Moreover, the informant allegedly sustained simple injuries and having regard to the nature of case, there is no necessity of custodial interrogation. In such circumstances, the application deserves to be allowed.

4. Mrs. V. S. Choudhari, learned APP for the Respondent - State, on the other hand, opposed the submissions by contending that the investigation is in progress and there being no merit in the application, the same is liable to be rejected.

5. I have gone through the contents of F.I.R. The alleged incident took place on 12.06.2021 whereas the F.I.R. came to be lodged on 19.06.2021. I find substance in the submission

of learned counsel for the applicants that the delay has not been explained in any manner by the informant while lodging the report. This is one aspect of the matter.

6. Similarly although it is alleged that the applicants had assaulted the informant by means of wooden log and iron rod but the injury certificate pertaining to the informant issued by Medical Officer, Rural Hospital, Shevgaon Taluka Shevgaon, District Ahmednagar shows that the informant had sustained Contused Lacerated Wound on parieto-temporal bone (left) and contusion on right forearm. It is pertinent to note here that it is not the specific case of informant that he was assaulted on the head by means of wooden log. All that is alleged in the F.I.R. is that informant was assaulted by means of wooden log and iron rod by these applicants. The nature of injuries recorded by the concerned Medical Officer is simple.

7. Having regard to the facts and circumstances of the case and as also the Injury Certificate, in my considered opinion, the application deserves consideration.

8. In view of above, I am inclined to allow the application. Hence the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants - (1) Samir Gafur Shaikh, (2) Sohel Fayajoddin Shaikh herein in connection with Crime No.I-360/2021, registered with Shevgaon Police Station, District Ahmednagar for the offences punishable under Sections 307, 324, 504 and 506 read with Section 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only), with one or two sureties in the like amount.
- (iii) The applicants shall co-operate the investigation as and when called by the Investigating Officer.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed off.

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

shp/-