

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.937 OF 2020

1. Siddiqui Mohammad Masiuddin
Mohammad Raziuddin,
Age : 26 years, occu. Business,
R/o Near Meer Jangu Masjid,
Lotakaranja, Aurangabad
2. Mohammad Kasim Mohammad
Mazharuddin Siddiqui,
Age : 24 years, Occu. Student,
R/o House No.1/26/28, Mominpura,
Behind Mominpura Masjid,
Aurangabad

APPLICANTS

VERSUS

The State of Maharashtra,
through Police Station Officer,
City Chowk Police Station,
Aurangabad

RESPONDENT

Mr. Khan Mohsin Khan Masood, Advocate for the applicants
Mr. V.S. Badakh, A.P.P for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 19.01.2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicants are apprehending their arrest in connection with Crime No. 266 of 2020, registered with City Chowk Police Station, Aurangabad for the offences punishable under Sections 326, 323,

504, 506 read with Section 34 of the Indian Penal Code and Section 25 read with Section 4 of the Arms Act.

2. It is alleged in the FIR that on account of some previous dispute, the accused persons were annoyed with the informant and assaulted him with sword, iron rod and sticks in the night of 28.05.2020. He lodged the report on the next date and the offence was registered.

3. The learned Advocate for the applicants submits that the applicants are not at all involved in the crime. They were not named in the FIR. It is only in the supplementary statement of the informant recorded on the next day that some role is attributed to them. There was no reason why their names could not be mentioned in the FIR and they are being falsely implicated. They are ready to cooperate the Investigating Officer as they have already done pursuant to the ad-interim protection granted to them. There are no allegations about they having breached the terms and conditions. Their custodial interrogation is not necessary and the application may be allowed.

4. The learned A.P.P. opposes the application. He submits that may be erroneously, but the informant has recorded supplementary statement attributing overtact to each of the applicant. The supplementary statement of the informant has been recorded on the very next date. The applicants have used weapons which are to be recovered and the application may be rejected.

5. I have carefully gone through the papers. Admittedly, the applicants have not been named in the FIR. The fact that in the supplementary statement, the informant has named them attributing some role to them is sufficient to indicate that he was knowing the applicants and could have easily named them in the FIR.

6. Besides, except Section 326 of the IPC, rest of the offences are bailable. The injury certificate and the police papers show that the informant sustained only simple injuries that too with hard and blunt object. Since there has been no grievous injury sustained by him, even there would be a serious doubt as to the applicability of Section 326 of the IPC.

7. It is in these circumstances, the application is allowed. The ad-interim relief granted to the applicants by the order dated 21.12.2020 stands confirmed with the same terms and conditions.

[MANGESH S. PATIL]
JUDGE

