

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

ANTICIPATORY BAIL APPLICATION NO. 872 OF 2021

Pravin @ Lakhan s/o Mahadev Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Sagar S. Phatale, Advocate h/f Mr. Ganesh J. Kore, Advocate for
the applicant

Mr. A. V. Deshmukh, APP for respondent / State
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CORAM : V. G. BISHT, J.

DATED : 27th 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. 0356 of 2021, registered with Omerga Police Station, District Osmanabad, for the offences punishable under Sections 307, 143, 147, 148, 149 of the Indian Penal Code.

2. It is the case of the prosecution that a dispute is going on in respect of the agricultural land between the informant's father-in-law and his father-in-law's nephew namely, Manohar Nivrutti Kamble

i.e. accused. On 28.06.2021, the informant had been to his in-law's house carrying a stay order from the High Court. Prosecution alleges that on 30.06.2021, while the informant had been to grocery shop in the village of his in-laws, at that time, accused Manohar Nivrutti Kamble, Lakhan Mahadev Kamble (applicant), Som Mohadev Kamble, Sonya Mahadev Kamble, Sachin Mahadev Kamble, Chimya Manohar Kamble and one unknown person came there. Accused Krushna Mahadev Kamble in order to kill the informant tried to throttle his neck and assaulted by means of a plastic pipe on his leg. The applicant also assaulted the informant on his leg by means of a wooden log and caused bleeding injury. It is further alleged that when the informant was referred to Sub-District Hospital, Omerga by the concerned Police Station, his brother-in-law – Santosh Manikrao Kamble, father-in-law Manik Sahadev Kamble and maternal father-in-law Masa Eknath Kamble also came there in an injured condition for treatment. These all persons and the informant were assaulted by means of sticks and plastic pipe.

3. Mr. Sagar S. Phatale holding for Mr. Ganesh J. Kore, learned Advocate for the applicant, submits that allegation is that all the accused including the applicant had used sticks and plastic pipe

and not the dangerous weapons. Similarly, a dispute in respect of the agricultural land is already going on between the parties and because of this, the present applicant has been falsely implicated inasmuch as the applicant was not present on the spot at the time of alleged incident. Learned counsel then submitted that one day prior to the alleged incident i.e. 29.06.2021, the father of the applicant had filed a complaint against the father-in-law of the informant herein vide Crime No. 351/2021 u/s 143, 323, 504 and 506 of the IPC and as a counterblast, the present complaint has been filed. In such circumstances, the applicant deserves to be given the benefit of pre-arrest bail, urged learned Counsel.

4. Mr. Deshmukh, learned APP, on the other hand, submitted that the present applicant and other accused after forming an unlawful assembly mounted an assault on the informant and his in-laws by means of wooden log and plastic pipe. The learned APP further submitted that all the witnesses have suffered grievous injuries and then pointed out the injury certificates. The investigation is going on and in such circumstances, the application of the applicant deserves to be rejected, argued learned APP.

5. *Prima facie*, the contents of the FIR would show the

complicity of the present applicant along with others in the alleged offences. Not only the informant was assaulted by means of wooden log but his relatives namely brother-in-law, father-in-law and maternal father-in-law were also assaulted by means of sticks and plastic pipe by the applicant and other accused named in the FIR.

6. I have also gone through the provisional injury certificates submitted before me by the learned APP. It is apparent from the perusal of those injury certificates that the informant and his in-laws as named in the FIR did suffer various grievous injuries on their person by means of blunt objects.

7. Having regard to the fact that there is *prima facie* involvement and the complicity of the present applicant in the alleged offence and the fact that the investigation is still going on, in my considered opinion, the applicant has not been able to make out a case for consideration. That being so, I am not inclined to extend the benefit of pre-arrest bail. Hence, I pass the following order.

ORDER

. The Anticipatory Bail Application is rejected.

[V. G. BISHT]
JUDGE