

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

ANTICIPATORY BAIL APPLICATION NO. 864 OF 2021

1. Janmohammad Raghuji Bagwan ... **Applicant**
Age 54 years, Occu: Business,
R/o Main Road, Georai, Tq. Georai,
District Beed.
2. Aawez Janmohammad Bagwan
Age: 24 years, Occu: Business
R/o As above.

VERSUS

The State of Maharashtra, ... **Respondent**
Through Police Inspector,
Georai Police Station Georai,
District Beed.

Smt. Rashmi Kulkarni, Advocate for Mr. S. S. Kulkarni, Advocate for
the applicant,
Mr. N.T. Bhagat, A.P.P. for the State.

CORAM : V. G. BISHT, J.
DATE : 13th August, 2021.

ORDER:

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.0308/2021, registered with Georai Police Station, District Beed for the offences punishable under Sections 307, 323, 324, 452, 504, 506, 34 of the Indian Penal Code, 1860 and under section 3/25 of the Indian Arms Act.

2. On 05.06.2021, at about 09.30 p.m., Nagarsevak-Janmohammad Raghuji Bagwan (Applicant No.1), Junaid Janmohammad Bagwan, Aawaz Janmahammad Bagwan (Applicant No.2) and Taufik Bagwan came in front of the house of the informant and started shouting in the name of grandson of the informant namely Mauli alias Suraj. When the informant and her son Anand came out of the house and enquired, applicant No.1 again enquired as to where her grandson Mauli is and he should be called out from the house. It is alleged that in order to kill the informant, Junaid Janmohammad gave a blow of sickle on her head. Taufik Janmohammad also assaulted her son. Applicant No.2 beat the grand-daughter of the informant by means of fist and kick blows.

3. Mrs. Rashmi Kulkarni, learned Advocate for the applicants, submits that so far as role of the present applicants are concerned, except applicant No.2, it is nowhere alleged that applicant No.1 extended any sort of beating. As far as applicant No.2 is concerned, allegations against him is that he had beaten the grand-daughter of the informant by means of fist and kick blows. Thus, prima facie, ingredients of section 307 to the extent of these applicants are not attracted. Moreover, according to the learned counsel, to counter the case filed by the son of applicant No.1 against the grandson of the informant, the present first information report is filed and the applicants are falsely implicated.

4. Moreover, the alleged incident took place on 05.07.2021 whereas the first information report came to be lodged on 09.07.2021. Thus, there is inordinate delay in lodging the complaint without any cogent and convincing explanation.

5. Mr. N.T. Bhagat, learned A.P.P., would submit that the first information report prima facie shows involvement of the present applicants-accused and there being thus no merits in the application, the same is liable to be rejected, argued learned A.P.P.

6. A careful reading of the first formation report would clearly show that the role attributed to the present applicants is not of a very serious nature. As far as applicant No.1 is concerned, it is nowhere alleged that he was responsible in any manner in respect of any assault either on the informant or her family members.

7. As far as applicant No.2 is concerned, the allegation against him is that he had beaten grand-daughter of the informant by means of kick and fist blows. Thus, prima facie, the ingredients of section 307, as far as these applicants are concerned, are not attracted.

8. Coming to the delay aspect, admittedly there is delay of four days in lodging the first information report without any explanation much less satisfactory explanation. This being so, I am inclined to allow the present application.

9. For the aforesaid reasons, I pass following order:

O R D E R

- i. In the event of arrest of the applicants in connection with Crime No.0308/2021, registered with Georai Police Station, District Beed for the offences punishable under Sections 307, 323, 324, 452, 504, 506, 34 of the Indian Penal Code, 1860 and under section 3/25 of the Indian Arms Act, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand only] each, with one or two solvent sureties in the like amount.
 - ii. The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicants shall not tamper with the prosecution evidence in any manner.
10. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC