

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

ANTICIPATORY BAIL APPLICATION NO. 964 OF 2020

- 1) Bhagwan s/o Bajirao Ghorpade,
Age 73 years, Occ. Agriculture.
- 2) Mohan s/o Bhagwan Ghorpade,
Age 38 years, Occ. Agriculture.
- 3) Dnyanoba s/o Bhagwan Ghorpade,
Age 42 years, Occ. Agriculture.
- 4) Pawan s/o Dnyanoba Ghorpade,
Age 22 years, Occ. Agriculture.

All r/o. Fakir Jawla, Tq. Dharur,
District Beed.

... **Applicants.**

VERSUS

The State of Maharashtra,
Through Police Station Sirsala,
District Beed.

... **Respondent.**

...

Advocate for the Applicants : Mr. Sudarshan J. Salunke.
APP for the Respondent : Mr. V.M. Kagne.

CORAM : MANGESH S. PATIL, J.

DATE : 11.02.2021.

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. 244/2020, registered with Sirsala Police Station, District Beed, for the offences punishable under Section 143, 147, 148, 149, 323, 324, 452, 379, 427, 504 of the Indian Penal Code.

2 It is alleged that on account of previous animosity between the two

sides the applicants committed criminal trespass by forcing their entry into the house of the informant and assaulted her, her husband and daughters. They also ransacked the household articles and in the process even stole cash of Rs. 50,000/-. The incident is stated to have taken place on 10.06.2020 and the F.I.R. was lodged on 20.09.2020.

3. The learned advocate for the applicants would point out that there are F.I.Rs. and counter F.I.Rs. between the two sides. There is a long standing dispute. In all probability the current F.I.R. has been lodged to take vengeance. There is enormous delay of more than three months in lodging the F.I.R. No such incident has taken place. The applicants are ready to cooperate the Investigating Officer. They have already been granted ad interim anticipatory bail and the same may be confirmed with the same terms and conditions.

4. The learned A.P.P opposes the application. He submits that the offence is serious. At this juncture there is nothing to disbelieve the informant. There was a strong motive for the applicants to assault the informant and her family members. There has been a previous animosity. Custodial interrogation of the applicants is necessary to recover money and the weapons. The application be rejected.

5. I have carefully gone through the papers. As can be appreciated there has been a checkered history in as much as several F.I.Rs. and counter F.I.Rs. have been lodged between the two sides. So far as the present F.I.R. is concerned, the incident is stated to have take place on 10.06.2020 whereas the F.I.R. has been lodged on 20.09.2020. If really there has been a long standing dispute, when on earlier occasions the F.I.Rs. were lodged promptly, soon after the incidents, the delay of more than three months in lodging the present F.I.R. is clearly startling and eye catching. Though some attempt is made to explain the delay, such a background creates serious doubt about veracity of F.I.R. merely for the reason of enormous delay.

6. Be that as it may, even independently if one tends to scrutinize the papers there are several persons whose injury certificates are available in the papers of the investigation who have all sustained only one simple injury each. Taking into account the fact that it is being alleged that the applicants had used weapons, the injuries sustained by the informant and her family members *ex facie* do not conform to the allegations.

7. Considering all the aforementioned facts, when the applicants have already been protected by way of ad interim anticipatory bail by the order dated 23.10.20020 and there are no allegations about they having committed breach of the terms and conditions, the ad interim relief deserves to be confirmed.

8. The Application is allowed. Ad interim relief is confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)

mkd/-