

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

**CRIMINAL APPLICATION NO. 1644 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 800 OF 2021**

Rajwardhan S/o Madan Gawai ...Applicant

Versus

Ankush S/o Sakharam Chavan & Anr. ... Respondents

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Mr. H. S. Bali, Advocate for the applicant
Mr. Menezes Joslyn A, Advocate h/f Mr. P. S. Paranjape, Advocate for
respondent nos. 1 & 2
Mr. S. B. Narwade, APP for respondent No. 3 / State
.....

**AND
ANTICIPATORY BAIL APPLICATION NO. 800 OF 2021**

- 1] Ankush Sakharam Chavan,
Age : 65 years, Occu. Retired
- 2] Rahul Ankush Chavan,
Age : 29 years, Occu. Education

Both R/o. Chaudhari Nagar,
Tq. & Dist. Jalna.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....
Mr. Menezes Joslyn A, Advocate h/f Mr. P. S. Paranjape, Advocate for
applicants
Mr. S. B. Narwade, APP for respondent / State
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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 11th AUGUST, 2021

DATE OF PRONOUNCING THE ORDER : 20th AUGUST, 2021

PER COURT : -

CRIMINAL APPLICATION NO. 1644 OF 2021 : -

1. Heard. By this application, applicant seeks permission to assist APP.

2. For the reasons stated in the application, same is allowed.

ANTICIPATORY BAIL APPLICATION NO. 800 OF 2021 :-

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. 0295 of 2021, registered with Jalna Taluka Police Station, Taluka and District Jalna for the offences punishable under Sections 323, 326, 504, 506 r/w 34 of the Indian Penal Code.

2. The informant had some domestic dispute with his wife. On 23.06.2021, his wife had requested him to come home early but as the informant was on duty being a medical practitioner, could not return in time. Therefore, his wife had left the matrimonial home

along with her father - Ankush Sakharam Chavan i.e. applicant no. 1 and brother – Rahul Ankush Chavan i.e. applicant no. 2.

3. It is alleged that on 24.06.2021, the informant had been to the house of his in-laws where both the applicants abused the informant and beat by means of fists and kick blows. It is further alleged that applicant no. 1 – Ankush assaulted the informant by means of iron rod on his left hand and caused fracture.

4. Mr. Menezes Joslyn A, learned Counsel for applicants, at the very outset submits that the incident in question took place on 24.06.2021 whereas the FIR came to be lodged on 02.07.2021 i.e. after delay of seven days. No reason for the delay has been properly explained in the said FIR. The learned Counsel then next submitted that if the FIR bearing Crime No. 0422 of 2021 registered with S. B. Jalna Police Station and FIR bearing Crime No. 0284 of 2021 registered with Taluka Jalna Police Station are perused along with the present complaint, one thing would be clear that the informant was in an inebriated state on 24.06.2021 in between 04:30 pm to 06:45 pm and so also when he was examined at Civil Hospital, it was confirmed that he was under the influence of liquor. Hence, the version narrated

in the FIR in question creates doubt and does not corroborate with the events allegedly occurred on 24.06.2021. In such circumstances, the interim relief granted by this Court on 06.08.2021 needs to be confirmed, argued learned Counsel.

5. Mr. S. B. Narwade, learned APP, on the other hand, submitted that the version of informant is supported by medical certificate and then invited my attention to the injury certificate pertaining to the informant. There being no merit in the application the same is liable to be rejected, argued learned APP.

6. First of all, there is substance in the submission of the learned Counsel for the applicant that there is delay of seven days in filing the FIR in question without there being any cogent and satisfactory explanation.

7. Perusal of the record would show that FIR bearing Crime No. 0422 of 2021 dated 25.06.2021 was registered with S. B. Police Station, Jalna for the offence punishable u/s 354, 341, 323 and 506 of the IPC against the informant. Similarly, FIR bearing Crime No. 0284 of 2021 dated 25.06.2021 was registered with Taluka Jalna Police

Station for the offence punishable u/s 85(1) of the Maharashtra Prohibition Act, 1998, against the informant. Even the papers submitted by learned APP would show that on 25.06.2021 the informant had been to the Taluka Jalna Police Station under the influence of liquor with a complaint of fracture on his hand and as he was found under the influence of liquor, FIR bearing Crime No. 0284 of 2021 for the offence under Section 85(1) of the Maharashtra Prohibition Act, came to be registered.

8. Learned Counsel for the applicants, during the course of arguments, emphasized that the incident of 25.06.2021 registered as FIR No. 0422 of 2021 gets corroboration from the FIR bearing No. 0284 of 2021 registered for the offence under Section 85(1) of the MP Act, as the informant was under the influence of liquor and since he had tried to outrage the modesty of informant therein, the possibility of his being thrashed by the public cannot be ruled out.

9. I have also gone through the injury certificate submitted for my perusal by the learned APP. The said injury certificate would show that in all the informant had sustained six injuries. He was examined on 29.06.2021. Except injury no. 6, all other injuries are

simple in nature. It is pertinent to note that, alleged incident took place on 24.06.2021 whereas, the informant was examined on 29.06.2021. What strikes in the mind is that the informant himself is a medical practitioner and he could not have delayed his treatment and medical examination but waited till 29.06.2021.

10. *Prima facie* I am satisfied that the present applicants have made out a case for anticipatory bail. This being so, I am inclined to allow the present application. Hence, following order.

ORDER

- i. In the event of arrest of the applicants herein in connection with Crime No. 0295 of 2021, registered with Jalna Taluka Police Station, Taluka and District Jalna for the offences punishable under Sections 323, 326, 504, 506 r/w 34 of the Indian Penal Code, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs. 20,000/- [Rs.Twenty thousand only], with one or two solvent sureties in the like amount.
- ii. The applicants shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

11. The Anticipatory Bail Application No. 800 of 2021 stands allowed in aforesaid terms.

[V. G. BISHT]
JUDGE