

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 877 OF 2021

Vijay s/o Sandipan Nirde ...Applicant

Versus

The State of Maharashtra ...Respondent

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Advocate for the Applicant : Mr. D. J. Choudhari

APP for the Respondent – State : Mr. S. B. Narwade

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CORAM : V. G. BISHT, J.

DATE : 27th SEPTEMBER, 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.0155/2021, registered with Dindrud Police Station, Taluka Dharur, District Beed for the offences punishable under Sections 326, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, 1860.

2. It is the case of prosecution that the applicant had been to work in the field of accused Avinash Aangad Nirde as a labour and had a talk with his wife. Since then said

accused used to suspect applicant and harass him. Prosecution alleges that on 18.07.2021 at about 09.30 a.m. applicant had been to work in the field of said Avinash Aangad Nirde. At that time said accused, Ashok Aangad Nirde, Vishnu Bhanudas Nirde, Suresh Sandipan Nirde, Vaijnath Baban Nirde and Sahadeo Baban Nirde came there. They called the informant in the cattle shed of accused Avinash. It is further alleged that applicant then tied both the legs of informant and accused Avinash Aangad Nirde gave a blow of iron rod on the left leg and caused fracture. The rest of the accused assaulted him by means of sticks. Informant accordingly lodged the report.

3. Mr. D. J. Choudhari, learned counsel for the applicant, submits that main accused, namely, Avinash Aangad Nirde has already been arrested and the iron rod used by him is also seized by the Investigating Officer. As far as the role of present applicant is concerned, he allegedly had tied the legs of the informant and keep this in mind the custody of the applicant is not necessary, argued learned counsel.

4. Mr. S. B. Narwade, learned APP for the Respondent – State, on the other hand, would oppose the submissions by

contending that the applicant along with accused not only formed an unlawful assembly but also in prosecution of their common object assaulted the informant. Since the applicant had tied the legs of informant and this enabled other accused to assault him, he is equally responsible for voluntarily causing grievous hurt. Investigation is in progress and, therefore, the custody of applicant is necessary.

5. I have gone through the investigation papers and as also Injury Certificate pertaining to the informant. Injury Certificate shows that he had suffered grievous injury on his left leg by means of hard and blunt object. The learned APP does not dispute that the main accused, namely, Avinash Aangad Nirde has been arrested and so also the weapons, namely, iron rod used by main accused Avinash and sticks used by the others are also seized during the course of investigation. It may be noted that all the accused and the applicant had beaten informant in prosecution of their common object but the fact remains that there is nothing to be recovered from the custody of the applicant.

6. In such circumstances, I am inclined to allow the present application. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant Vijay Sandipan Nirde herein in connection with Crime No.0155/2021, registered with Dindrud Police Station, Taluka Dharur, District Beed for the offences punishable under Sections 326, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only), with one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence in any manner.
- (iv) Application is accordingly disposed of.

**(V. G. BISHT)
JUDGE**

shp/-