

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

ANTICIPATORY BAIL APPLICATION NO. 883 OF 2021

Nanasaheb Laxman Ghule,
Age : 49 years, Occu. Service,
R/o. Ranjani, Tq. Shevgaon,
Dist. Ahmednagar.

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Niteen V. Gaware, Advocate for the applicant
Mrs. Vaishali S. Choudhari, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 20th September, 2021
DATE OF PRONOUNCING THE ORDER : 22nd 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. 0425 of 2021, registered with Shevgaon Police Station, District Ahmednagar, for the offences punishable under Sections 452, 324, 323, 504, 506, r/w 34 of the Indian Penal Code and under Section 92 of the Rights of Persons with Disabilities Act, 2016.

2. Shortly stated, the case of the prosecution is that on 15.07.2021, the applicant rang up the informant and asked him as to why he puts comments after his message in a WhatsApp group and also abused him. The applicant's son, namely, Abhijit Ghule (accused) had also threatened the informant with death on telephone.

3. On 16.07.2021, at about 07:00 am., while the informant was standing in his house compound, accused Ganesh Manohar Ghule came armed with stick, applicant with iron rod and accused Abhijit Nanasaheb Ghule with a stick. When the accused Ganesh Manohar Ghule and Abhijit Nanasaheb Ghule started abusing, the informant objected to the same. It is further alleged that at that point of time, the applicant and accused Ganesh Manohar Ghule entered in the informant's house and dragged him outside. It is further alleged that the accused Ganesh Manohar Ghule then gave a blow of wooden log on the ribs of informant while the applicant inflicted a blow of iron rod on his head and thereby caused bleeding injury. Similarly, accused Abhijit also assaulted informant by means of stick. The informant lodged the report accordingly.

4. Mr. Niteen V. Gaware, learned Counsel for the applicant, submits that all the accused, except the applicant, have been released

on anticipatory bail by the learned trial Court. There is also recovery of alleged weapons at the hands of the Investigating Officer. Since the weapon of offence has already been recovered, there is no necessity of custodial interrogation, argued learned Counsel.

5. Mrs. Vaishali S. Choudhari, learned APP, on the other hand, would oppose the submissions by contending that it was this applicant, who had given a blow of iron rod on the head of the informant and thereby caused grievous injury. Learned APP also invited my attention to the investigation papers and would submit that the prosecution witnesses support the contents of FIR. Learned APP also invited my attention to the injury certificate emphasizing the nature of injury sustained by the informant.

6. Perusal of FIR clearly shows that the informant was assaulted by the present applicant and other accused. It is also clear from the order of the learned trial Court that all the other accused have been admitted on anticipatory bail. Since this applicant had allegedly given a blow of iron rod on the head of the informant and thereby caused grievous injury, he was refused anticipatory bail by learned trial Court.

7. Admittedly, the injury certificate shows that the informant had sustained contused lacerated wound (CLW) on occipital region by blunt object (metallic rod) and the nature of injury was grievous. It is not the case of the prosecution that this injury resulted in any kind of serious complication or got aggravated in any manner. It is also clear from the investigation papers that the rod which was allegedly used in the commission of offence is already seized by the Investigating Officer. In such circumstances, I do not find any rationale in not extending the benefit of pre-arrest bail in favour of the applicant as well. If any further enquiry is required to be made from the applicant, then certainly some conditions can be imposed upon him. Essentially, it does not appear to me that the case requires custodial interrogation.

8. For all the aforesaid reasons, I am inclined to extend the benefit of pre-arrest bail in favour of the applicant. Hence, the following order.

ORDER

- i. In the event of arrest of the applicant, namely, Nanasaheb Laxman Ghule in connection with Crime No.0425 of 2021, registered with Shevgaon Police Station, District Ahmednagar, for the offences punishable under Sections 452, 324, 323, 504, 506, r/w 34 of the

Indian Penal Code and under Section 92 of the Rights of Persons with Disabilities Act, 2016, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand], with one or two solvent sureties in the like amount.

- ii. The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicant shall not tamper with the prosecution evidence in any manner.
9. The application stands disposed of in aforesaid terms.

[V. G. BISHT]
JUDGE