

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 906 OF 2021

(1) Nagesh s/o Suresh Pathriya
(2) Akshay s/o Suresh Pathriya

...Applicants

Versus

The State of Maharashtra

... Respondent

...

Advocate for the Applicants : Mr. A. K. Bhosle
APP for the Respondent – State : Mr. S. B. Narwade

...

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 applicants seeking grant of pre-arrest bail in connection with Crime No.0445/2021, registered with Topkhana Police Station, District Ahmednagar for the offences punishable under Sections 307, 323, 324, 504, 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that informant is working as a supervisor at "Sai Asian Hospital". Applicant No. 1 is a house keeper in the said hospital. Both of them had a minor quarrel six days prior to the incident in question. Prosecution alleges

that on 04.06.2021 both the applicants assaulted the informant by means of wooden log and sickle. Later on informant lodged the report.

3. Mr. A. K. Bhosle, learned counsel for the applicants, submits that the ingredients of Section 307 do not attract in this case. They have no criminal antecedents and are ready to co-operate with the Investigating Officer.

4. Mr. S. B. Narwade, learned APP, would oppose the submissions by contending that there are witnesses to the incident and the recovery of weapons are yet to be effected. Since the investigation is in progress the custody of applicants is necessary.

5. A plain reading of F.I.R. would indicate that the informant was assaulted by both these applicants by means of wooden log and sickle. It was applicant No.2 who had allegedly given a blow of sickle on the head of the informant. A perusal of injury certificate pertaining to the informant would suggest that he had sustained head injury i.e. contused lacerated wound over forehead, size 4 cm.x 2 cm. with "sub arachnoid haemorrhage". The nature of injury was grievous. The investigation papers also reveal that the wooden log was

seized during the course of investigation. Merely the sickle is to be recovered from applicant No.2, the same cannot be a ground for rejection of the application. Necessary conditions can be imposed.

6. Having regard to the nature of offence and as also keeping in mind the injury sustained by the informant, in my considered opinion, the applicants can be given the benefit of pre-arrest bail with certain conditions. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants -(1) Nagesh s/o Suresh Pathriya (2) Akshay s/o Suresh Pathriya herein in connection with Crime No.0445/2021, registered with Topkhana Police Station, District Ahmednagar for the offences punishable under Sections 307, 323, 324, 504, 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only), each with one or two sureties in the like amount.
- (iii) The applicant shall attend concerned police station as and when called by the Investigating Officer.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed of.

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