

Sarfraz Khan s/o Ayub Khan ... **Applicant**  
Age 40 years, Occu: Business,  
R/o 5-16-33, ABC Laundry,  
Nutan Colony, Aurangabad

|    |                                                                                                             |     |             |
|----|-------------------------------------------------------------------------------------------------------------|-----|-------------|
| 1. | The State of Maharashtra,<br>Through District Superintendent of Police,<br>Aurangabad, District Aurangabad  | ... | Respondents |
| 2. | The Police Inspector/Investigation Officer<br>Kranti Chowk Police Station,Aurangabad<br>District Aurangabad |     |             |

CORAM : V. G. BISHT, J.  
RESERVED ON : 20th September, 2021  
PRONOUNCED ON : 22nd September, 2021

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.0469/2021 registered with Kranti Chowk Police Station, District Aurangabad for the offences punishable under Sections 326, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, 1860.

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started beating informant, informant's brother Saknet Shirsath and his friend Swapnil Harshe who were accompanying the informant. Being threatened, they ran away, however, the accused Javed Khan and other co-accused including the applicant chased the informant, caught hold him and assaulted on his left hand and both legs by means of iron rod, sticks and hockey sticks. The informant later on lodged the report.

3. Ms. Asha N. Gore, learned counsel for the applicant, submits that there are vague allegations against the applicant. Having regard to the allegations, there is nothing to be recovered. Moreover, recovery has already been effected by the investigating officer during the course of investigation. In such circumstance, the application deserves to be allowed, argued learned counsel.

4. Mr. S. B. Narwade, learned A.P.P., on the other hand, invited my attention to the observation of learned trial court and justified the rejection of anticipatory bail application at the hands of learned Additional Sessions Judge, Aurangabad.

5. Learned A.P.P. then invited my attention to the investigation papers and medical certificate and pointed out the grievous injury sustained by the informant as a result of assault at the hands of applicant and other co-accused. According to the learned A.P.P., investigation is in progress and in such circumstance, custody of the applicant is necessary.

6. I have gone through contents of the first information report. A general allegation is made that the applicant and others were armed with iron rod, hockey sticks and sticks. However, the first information report does not make it clear as to what weapon with which the present applicant was armed with. I have also gone through the statements of eye witnesses and, like contents of the first information report, they also state that the informant was assaulted by the applicant and others by means of iron road, hockey sticks and sticks. It is no where specified which accused including the applicant was armed with what weapon. Be that as it may, the fact remains that the informant had sustained ulna fracture on left hand which was a grievous injury.

7. Investigation paper also show that there is recovery of iron rod and wooden log during the course of investigation at the instance of main accused namely Javed khan Ayub Khan. This clearly suggests that there is due recovery of weapons.

8. Having regard to the above, in my considered opinion, the present application deserves consideration with certain conditions. Hence, the following order.

### **O R D E R**

- i. In the event of arrest of the applicant in connection with Crime No.0469/2021 registered with Kranti Chowk Police Station, District Aurangabad for the offences punishable under Sections 326, 143, 147, 148, 149, 504, 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/- [Rs. Twenty thousand only], with one or two solvent sureties in the like amount.

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

(V. G. BISHT, J.)

JPC