

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

ANTICIPATORY BAIL APPLICATION NO. 998 OF 2021

Rajkumar s/o Bhujangrao Pawar, ... **Applicant**
Age 30 years, Occu: Agri.
R/o Lokmanya Tilak Mohalla, Court Road,
Ambad, Tq. Ambad, District Jalna

VERSUS

1. The State of Maharashtra, ... **Respondent**
Through Investigating Officer,
Ambad Police Station,
Tq. Ambad, District Jalna

Mr. R. V. Gore, Advocate for the applicant,
Mrs. V. S. Chaudhari, A.P.P. for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 16th September, 2021
PRONOUNCED ON : 21st September, 2021

ORDER:

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. 0345/2021 registered with Ambad Police Station, Tq. Ambad, District Jalna for the offences punishable under Sections 307, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, 1860.

2. It is the case of prosecution that the informant is a Police Constable, attached to Economic Offence Wing, Jalna. Informant's younger brother namely Mahendra Rajendra Gaikwad, victim, is also a Police Constable attached to Police Headquarters, Jalna. On 26.06.2021,

at about 11.00 to 11.30 p.m., the informant received a message from his colleague namely Nazir Patil that his younger brother i.e. victim has been assaulted by some persons and is lying on the road near Ravana Parada Dargah at Ambad and this information was given to Nazir Patil by one Santosh Gaikwad. The informant accordingly alongwith Nazir Patel and his elder brother Vijendra Rajendra Gaikwad went to that Dargah and found the victim in a pool of blood, lying unconscious.

3. The prosecution then contends that said Santosh Gaikwad also reached there and informed that while they were dining at Nilesh Hotel, accused Wasim Patil, Rajkumar Bhujang Pawar (Applicant), Vinod Bhujang Pawar and other 3/4 unknown persons were also there. The applicant and accused Vinod Bhujang Pawar were under the influence of liquor and started addressing irrelevant things to Santosh and one Bablu Shaikh. The applicant also said that he is a Don of Ghansawangi and his dictate rules the area. The prosecution alleges that he also came to assault Santosh and Bablu. It is at that time, when victim tried to intervene, he was also assaulted by the applicant by means of knife on his leg. Accused Vinod Bhujang Pawar also gave a blow of iron tommy on the head and mouth of the victim. When said Santosh and Bablu tried to intervene, they were also assaulted by the other accused. The informant accordingly lodged the report.

4. Mr. R. V. Gore, learned counsel for the applicant, submits that though the alleged incident took place on 26.06.2021, the first

information report in question came to be lodged on 28.06.2021. The said delay is nowhere explained. According to the learned counsel, as the applicant herein lodged a report against the applicant bearing FIR No. 336/2021 on 27.06.2021, as a counterblast, the first information report in question came to be filed against the applicant and one Rahmoddin Sayyed by the victim herein. Even otherwise, according to the learned counsel, the alleged injury sustained by the victim on his leg is not serious and not on the vital part of the body. There is no necessity of custodial interrogation and in such circumstance, present application may be allowed, urged learned counsel.

5. Mrs. V. S. Chaudhari, learned A.P.P., on the other hand, would oppose the submissions by contending that there are eye witnesses to the incident who corroborate the version of the informant. There is injury certificate on record. In such, circumstance, custodial interrogation of the applicant is necessary. There being no merit in the application, the same deserves to be rejected.

6. Perusal of the record would show that there are first information report and counter first information report against both the parties. While the applicant herein filed first information report against the victim on 27.06.2021, the informant i.e. brother of the victim has filed first information report on 29.06.2021 arising out of the same incident. Admittedly, there is three days delay which is nowhere explained by the prosecution.

7. It may be that there are statements of witnesses who prima facie support the version of victim but right now what matters is the injury certificate which is issued by Jalna Hospital. Two injuries sustained by the victim were simple in nature whereas remaining two injuries were of grievous nature. It is pertinent to note here that it is specifically alleged that present applicant had given blow of knife on the leg of the victim. The injury certificate shows that there was contused lacerated wound on left leg admeasuring 4x1 cms and nature of injury was simple. As far as grievous injuries are concerned and noted in the certificate, admittedly those injuries were not caused by the applicant but by some other accused.

8. Having regard to the fact that there are F.I.R. and counter F.I.R. and as also delay aspect plus nature of injuries sustained by the applicant, in my considered view, the present application deserves consideration. Hence, the following order.

O R D E R

- i. In the event of arrest of the applicant in connection with Crime No. 0345/2021 registered with Ambad Police Station, Tq. Ambad, District Jalna for the offences punishable under Sections 307, 143, 147, 148, 149, 323, 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