

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1003 OF 2021

(1) Sanjay s/o Sahebrao Pawar,
(2) Sahebrao s/o Ramprasad Pawar ...Applicants

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicants : Mr. Suraj Bagal h/f.
Mr. B. N. Gadegaonkar
APP for the Respondent – State : Mr. V. S. Badakh

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CORAM : V. G. BISHT, J.

Reserved on : 14th SEPTEMBER, 2021
Pronounced on : 15th 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.0211/2021, registered with Chandanzira, Jalna Police Station, Taluka and District Jalna for the offences punishable under Sections 307, 326, 327, 323, 143, 147, 148, 149 of the Indian Penal Code, 1860 and 4, 25 of Arms Act.

2. It is the case of prosecution that on 21.06.2021 while the informant was proceeding towards his house on his bullock

cart, he found a white coloured Scorpio Jeep parked by applicant No.1 and therefore the informant asked him to remove the said jeep from the road. It is alleged that applicant No.1 assaulted on the head of informant by means of sword while accused Sunil by means of a sword stick (*gupti*), due to which he fell down. Accused Dilip assaulted by means of iron rod and thereafter applicant No. 2 snatched gold chain from the neck of informant and gave it to his wife. The informant accordingly lodged the report.

3. Mr. Suraj Bagal holding for Mr. B. N. Gadegaonkar, learned counsel for the applicants, submits that the ingredients of offence under Section 307 are absent and by no stretch of imagination it can be said that the applicants attempted to commit murder of the informant. Similarly, allegation of snatching the gold chain is by way of an after thought and is made just to aggravate the allegations. According to learned counsel, all the recoveries have been done by the Investigating Officer. Similarly, wife of applicant No.2 to whom applicant No.2 had allegedly given the gold chain is already released on anticipatory bail. The investigation is almost over and therefore, custodial interrogation of the applicants is not at all necessary.

4. Mr. V. S. Badakh, learned APP for the Respondent – State, on the other hand, invited my attention to the Medico Legal Certificate collected during the course of investigation. The learned APP would submit that the informant sustained grievous injury and since the investigation is in progress, the present application should not be allowed.

5. A perusal of the First Information Report would show that applicant No.1 had allegedly assaulted on the backside of the head of informant by means of sword, whereas applicant No.2 allegedly had snatched gold chain from the neck of the informant and had handed over it to his wife. Wife of applicant No.2 is already released on anticipatory bail by the trial Court.

6. I have also gone through the Medico Legal Certificate pertaining to the informant. On perusal of it, it is seen that the informant had sustained Contused Lacerated Wounds on right parieto occipital region and on right occipital region. Similarly the informant also sustained fracture on the left index finger. Thus, the grievous injury was only on the left index finger caused by hard and blunt object.

7. Having regard to the facts and circumstances of the case and as also keeping in mind, the Medico Legal Certificate, in

my considered opinion, the present application deserves consideration.

8. In view of above, I pass the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants - (1) Sanjay s/o Sahebrao Pawar, (2) Sahebrao s/o Ramprasad Pawar herein in connection with Crime No.0211/2021, registered with Chandanzira, Jalna Police Station, Taluka and District Jalna for the offences punishable under Sections 307, 326, 327, 323, 143, 147, 148, 149 of the Indian Penal Code, 1860 and 4, 25 of Arms Act, 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 applicants shall co-operate in the investigation 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 off.

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

shp/-