

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

**7 ANTICIPATORY BAIL APPLICATION NO.1039 OF 2021
WITH APPLN/2433/2021 IN ABA/1039/2021**

- 1) Parasram s/o Babasaheb Bhojgude,
(Named as Prashant Babasaheb Bhojgude
in FIR)
 - 2) Shridhar s/o Zungaram Bhojgude
- ...Applicants**

VERSUS

The State of Maharashtra

...Respondent

...

Mr. Sudarshan J.Salunke, Counsel for applicants
Mr. A.V.Deshmukh, APP for respondent-State
Mr. Suvidh S.Kulkarni, a/w Mr.Pratiksha Kale, holding for Vishal Kadam,
Counsel for complainant (assist to APP)

...

CORAM : PRAKASH D. NAIK, J.

DATE : 15th NOVEMBER, 2021

PER COURT:

1] The applicants are seeking relief under Section 438 of Cr.PC. in connection with Crime No.0082 of 2021 registered with Gevrai Police Station Dist.Beed for the offences punishable under Sections 307, 327, 324, 143, 147, 148, 149, 323, 504 and 506 of Indian Penal Code (in short, 'IPC').

2] The First Information Report (for short 'FIR') was lodged by Kiran Nivrutti Gavade on 1st March, 2021 alleging that on 27th February, 2021, the complainant and his friends Nitesh Bhopale, Sachin and Vishnu Talekar were talking to each other. At that time, Pradosh Jadhav, Sanjay

Pawar and Vitthal Jadhav approached them. At that time, complainant's friends raised the issue about the dues with Pradosh Jadhav and demanded the amount of Rs.13,000/-. The accused refused to return the said amount and abused him. The complainant and his friends were intimidated and the accused left the place. On the same day at about 08.00 pm, the complainant, his brother Pawan, nephew Yogesh Chavre and friends Nitesh Bhople, Sachin and Vishnupant Talekar were chitchatting in front of shop. At that time 5-7 persons threw bottles at them. Accused Sanjay Pawar questioned the complainant about the dispute with Nitesh Bhople and Pradosh Jadhav and abused him. The accused tried to assault the complainant with razor. The blow was evaded by him, which has resulted in the injury to his cheek. The said accused removed amount of Rs.4,070/- and gold chain from his person. At that time Nitesh intervened and he was assaulted by Pradosh Jadhav with knife with an intention to kill him. He sustained injury on his eye-brow. Yogesh tried to intervene the quarrel and he was assaulted by the applicant No.1 with knife, which resulted injury to his finger. Pawan and Umesh intervened and at that time, the applicant No.2 assaulted by wooden stick, which has resulted in abrasions. Thereafter, all the accused threw bottles at them and threatened them.

3] Learned Advocate for the applicants submitted that there is inordinate delay in lodging the FIR. The alleged incidents occurred on

27.02.2021. The statement of complainant was recorded on 1st March, 2021 and the FIR was registered on 2nd March, 2021. It is submitted that on account of the dispute and enmity, the applicants were falsely implicated in this case. The applicant No.1 had allegedly assaulted with knife causing injury to the finger, which is of simple nature. The applicant No.2 was attributed role of assaulting by wooden log. It did not result in any injury. The applicants had not participated in the first incident of quarrel and intimidation between the complainant, his friends and the co-accused.

4] Learned APP submitted that the incident is of serious nature. Specific overt act has been attributed to the applicants. The applicant No.1 was armed with knife. The co-accused dealt with blow with weapon, which has resulted in grievous injury. Several cases was registered against the accused No.1. Two other cases was registered against the applicants. Considering the nature of incident, the application be rejected.

5] Learned counsel for the complainant supported the submissions of learned APP. It is submitted that the applicants have participated in the crime. The applicants are associated with the main accused who is having criminal antecedents. The brother of the complainant had lodged the FIR against the co-accused in the present case. The incident is of serious nature. Hence, application be rejected.

6] On perusal of the FIR, it is apparent that the first incident had occurred on the issue of payment of dues by the co-accused. The applicants were not present at the site and had not participated in the said incident. The second incident occurred on the same day. The applicant No.1 had allegedly used knife and assaulted the brother of the applicant, who tried to intervene in the quarrel, resulting in injury to his finger. The injury is simple. The applicant No.2 had assaulted with wooden stick which has not resulted any injury. The co-accused Babu @ Bapu and Dnyaneshwar @ Gotya Jadhav who were attributed role of pelting bottles were granted anticipatory bail by this Court. Learned APP has relied upon the antecedents of the applicants. The applicant no.1 is allegedly involved in the case registered vide Crime No.174 of 2017, which is pending in the trial court. The other case, which is registered against the applicant vide Crime No.517 of 2018 under the Arms Act. As far as the applicant No.2 is concerned, he is involved in the cases registered vide Crime No.105 of 2018 for the offences under Sections 307 and 341 of IPC and Crime No.517 of 2018 under the Arms Act. However, considering the nature of overt act attributed to the applicants and the factual aspect of this matter, they needs not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.1039 of 2021 is allowed.
- (ii) In the event of arrest of applicants in connection with Crime No.82 of 2021 registered with Gevrai Police Station, Dist.Beed, the applicants be released on bail on their executing PR.Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount.
- (iii) Applicants shall report the Investigating Officer on 22nd, 23rd and 24th November, 2021 at 11.00 am to 01.00 pm, thereafter, as and when called for, till filing of charge-sheet.
- (iv) Criminal Application 2433 of 2021 stands disposed of.

[PRAKASH D.NAIK, J.]

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