

Sonaji s/o Dhanaji Jagtap ... **Applicant**
Age 68 years, Occu: Agri,
R/o Bhandegaon, Tq. & Dist. Hingoli

The State of Maharashtra, ... Respondent
Through Hingoli Rural Police Station,
District Hingoli

CORAM : V. G. BISHT, J.
RESERVED ON : 23rd September, 2021
PRONOUNCED ON : 24th 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.199/2021 registered with Hingoli Rural Police Station, District Hingoli for the offences punishable under Sections 307, 323, 324, 504, 506, 34 of the Indian Penal Code, 1860.

Page 1 of 4

returning. The informant was ahead of his son and his cousin. The prosecution alleges that on his way, he found accused Kundlik Bapurao Jagtap, Gajanan Sonaji Jagtap and Sonaji Dhanaji Jagtap (applicant) armed with iron rod and axe. All of them questioned the informant as to why he lodges complaint against them and then accused Kundlik Jagtap gave a blow of iron rod on his right leg as a result of which the informant fell down. He again tried to gave a blow of iron rod on his head but that was resisted by the informant by his right hand as a result of which he sustained fracture on wrist and also sustained injury on his right thumb. Accused Kundlik Jagtap and Gajanan Jagtap again assaulted the informant from the reverse side of axe on his both legs and thereby caused fracture. Prosecution further alleges that the applicant then lifted a stone and hit on the waist and back of the informant. The informant later on lodged the report.

3. Mr. D. M. Shinde, learned counsel for the applicant, submits that having regard to the nature of injuries, no offence is made out under section 307 IPC. There is delay of five days in lodging the first information report. Moreover, the alleged weapons of offence have already been seized by the police. The alleged injury sustained by the informant at the hands of applicant was simple in nature. Thus, keeping all these material aspects in mind, the present application deserves to be allowed.

4. Mrs. V. S. Chaudhari, learned A.P.P., on the other hand, opposed the application by contending that the present applicant alongwith others, in furtherance of common intention, assaulted the informant by means of iron rod and axe. There were in all six injuries suffered by the informant. Witnesses also support the version of the informant. Investigation is in progress and there being no merit in the application, the same is liable to be rejected, argued learned A.P.P.

5. I have carefully gone through the first information report, investigation papers and medical certificate pertaining to the informant. As far as role of the present applicant is concerned, it is alleged that that he had assaulted the informant on his waist and back by means of stone. There are statements of prosecution witnesses who also support the version of the informant.

6. However, on going through the medico legal certificate issued by Sanjivani Critical Care Centre, it is seen that the informant in all suffered six injuries, out of which two were grievous in nature and rest of the injuries were simple. Injury No. 4 in the said certificate would show that the informant had sustained contusion on back lumbar area. This injury might have been caused because of alleged overt act by the present applicant.

7. It is also not in dispute that the stone allegedly used by the applicant is seized from the spot itself. Having regard to the role played

by the applicant and as also keeping in mind the simple injury sustained by the informant, in my considered opinion, 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.199/2021 registered with Hingoli Rural Police Station, District Hingoli for the offences punishable under Sections 307, 323, 324, 504, 506, 34 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.
8. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC