

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

**CRIMINAL APPLICATION NO. 2190 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 1056 OF 2021**

Rajebhau Achutrao Kulkarni,
Age : 65 years, Occu. Agri.,
R/o. Manoli, Tq. Manwat, Dist. Parbhani. **...Applicant**

Versus

Mohan Janardhan Kulkarni & Anr. **...Respondents**

.....
Mr. Sagar S. Phatale, Advocate for the applicant
Mr. N. T. Bhagat, APP for respondent No. 1
Mr. S. S. Chapalgaonkar, Advocate for respondent No. 2
.....

**AND
ANTICIPATORY BAIL APPLICATION NO. 1056 OF 2021**

Mohan Janardhan Kulkarni,
Age : 60 years, Occu. Agri.,
R/o. At Present Panchvati Colony,
Manwat, Tq. Manwat, Dist. Parbhani. **...Applicant**

Versus

The State of Maharashtra **...Respondent**

.....
Mr. S. S. Chapalgaonkar, Advocate for the applicant
Mr. N. T. Bhagat, APP for respondent / State
Mr. Sagar S. Phatale, Advocate to assist PP
.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 22nd September, 2021
DATE OF PRONOUNCING THE ORDER : 23rd September, 2021

PER COURT : -

CRIMINAL APPLICATION NO. 2190 OF 2021 :-

1. By this application, the applicant seeks leave to assist the PP.

2. For the reasons cited in the application, the same is allowed.

ANTICIPATORY BAIL APPLICATION NO. 1056 OF 2021 :-

3. 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. 0226 of 2021, registered with Manwat Police Station, District Parbhani, for the offences punishable under Section 324 r/w 34 of the Indian Penal Code, 1860.

4. It is the case of prosecution that the applicant is cousin of informant. A civil dispute in respect of agricultural land is going on between them.

5. On 22.07.2021, while the informant along with his son Rahul was returning from Court at Manwat, the applicant along with one unknown person came from behind on a motorcycle and parked his motorcycle in front of the informant. The said unknown person

also removed key of motorcycle from the informant's bike lock. The applicant told his companion that he should beat informant and that he would assist him and accordingly said unknown person gave a blow of stick on the backside of head of the informant and caused bleeding injury. It is further alleged that the applicant also gave three to four blows of stick on the head of the informant and also caused severe injuries to the tip of ring finger of the right hand. When the informant's son intervened, he was also assaulted by means of stick by the applicant and the said unknown person. The informant accordingly lodged the report.

6. Mr. S. S. Chapalgaonkar, learned Counsel for the applicant, submits that because of the ongoing civil dispute, the applicant has been falsely implicated. Learned Counsel invited my attention to the daily status of case bearing R.C.C. No. 49/2019 and impressed upon me that on the relevant date i.e. 22.07.2021, the applicant was present in the Court and then next invited my attention to the Invoice issued by Parbhani ICU and Trauma Care pointing out that on 22.07.2021, the applicant was admitted in the said hospital at about 01:40 pm and was discharged on the very day at about 05:54 pm. Learned Counsel, in fact, wanted me to believe that on the date of alleged incident, the applicant was not present at the place of

occurrence. Even otherwise, according to learned Counsel, there is no necessity of custodial interrogation as nothing is to be recovered from him. In such circumstances, the application deserves to be allowed, argued learned Counsel.

7. Mr. N. T. Bhagat, learned APP, on the other hand, opposed the submissions advanced by learned Counsel for the applicant and would submit that because of assault launched by the applicant and said unknown person, the informant suffered three serious injuries. Investigation is in progress and in such circumstances, there being no merit in the application, the same is liable to be rejected.

8. *Prima facie*, after going through the daily status of R.C.C. No. 49/2019, pending in the Court of Civil Judge, Junior Division and Judicial Magistrate First Class, Manwat, it would appear that the applicant had attended the proceedings there on 22.07.2021. It would also be seen from the Invoice of the Parbhani ICU and Trauma Care that on the very day at about 1:40 pm, he was admitted in the hospital and was discharged at about 05:54 pm on the same day. However, it is not so in as much as, according to FIR, the incident in question took place at about 12:30 pm on 22.07.2021. It may be seen

from the daily status of the said case that the matter came to be adjourned because of the prevalence of Covid-19. Thus, there was sufficient time gap between the adjournment of the said case and the incident in question, which took place at about 12:30 pm as per FIR. Similarly, the time of admission in the said hospital is at 01:40 pm. There was again sufficient time gap in between the occurrence of incident and the admission of the applicant in the hospital. *Prima facie*, I am not impressed with the submissions so advanced by the learned Counsel for the applicant.

9. I have gone through the investigation papers apart from the supplementary statements and the statement of witnesses. There is medical certificate pertaining to the informant, which shows that there were three injuries, namely, comminuted displaced fracture, fracture 2nd E¹ 4th metacarpal bone @ hand and fracture. The nature of said injuries was grievous and it was advised that all those injuries need operative interference.

10. The learned Counsel assisting to APP has also filed on record the photographs, which also show the injuries to head and as also amputation of tip of ring finger of the right hand as is alleged in the FIR.

11. In view of above, the applicant has not been able to make out a *prima facie* case worth for consideration. In this obtaining situation, I am reluctant to exercise the discretion in favour of the applicant. Hence, the following order.

ORDER

The application is rejected.

[V. G. BISHT]
JUDGE