

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

ANTICIPATORY BAIL APPLICATION NO. 1075 OF 2021

1. FEROZKHAN DADUKHAN PATHAN
 2. BISMILLAKHAN S/O. DADUKHAN PATHAN
- VERSUS
1. THE STATE OF MAHARASHTRA
 2. THE SUPERINTENDENT OF POLICE, JALNA.

Advocate for Applicants : Ms. Yugandhara Namde
h/f. Mr. D.R. Deshmukh.
APP for Respondents : Mr. N.T. Bhagat.

CORAM : PRAKASH D. NAIK, J.
DATE : 05.10.2021.

Per Court :

1. This is an application for anticipatory bail in Crime No. 494/2021, registered with Sadar Bazar Police Station, District Jalna, for the offences punishable under Sections 307, 326, 324, 504 read with Section 34 of the Indian Penal Code and under Section 4/25 of the Indian Arms Act.

2. The first information report was registered on 18.07.2021. Initially, the offence was registered under Section 326 of the IPC, which was altered to Section 307 of the Indian Penal Code. The case of the complainant is that the information was received

from the driver of his JCB that the accused had parked their vehicle at the place where they used to park their JCB. The complainant visited the spot. There was quarrel between them. At that point of time, applicant No. 1 allegedly took out iron pipe from JCB and assaulted complainant on his back, hand and knee. Applicant No. 1 also assaulted the brother of complainant with the iron pipe. Co-accused Rafik Pathan took out the sword from the JCB and gave blow on the head of the complainant. Applicant No. 2 then assaulted the injured persons by stone and kick blows.

3. Learned APP pointed out the injury certificate of the complainant. It does not correspond to the overt act attributed to the applicants.

4. Learned Advocate for the applicant submitted that the applicants are falsely implicated in this case. Initially the offence was registered under Section 326 of the IPC, which was altered to Section 307 of the IPC. The assault attributed to the applicants is not on vital part of the body of complainant. The injuries do not correspond to the overt act attributed to the

applicants.

5. On perusal of the information report and the investigation papers, it is noted that the quarrel had occurred on account of parking of JCB. Applicant No. 1 had allegedly assaulted the complainant with iron pipe. Applicant No. 2 was not armed with any weapon. Considering the overt tact attributed to both the applicants and the observations made above, the case for grant of anticipatory bail is made out.

ORDER

- i. Anticipatory Bail Application No. 1075/2021 is allowed.
- ii. In the event of arrest of applicants in Crime No. 494/2021, registered with Sadar Bazar Police Station, District Jalna, they be released on bail on executing P.R. bond in the sum of Rs. 20,000/- (Rupees twenty thousand) each with one or more sureties in the like amount.
- iii. The applicants shall appear before the Investigating Officer

on 12.10.2021, 13.10.2021 and 14.10.2021 between 11:00 am and 1:00 pm and thereafter, as and when called for till filing of the charge-sheet.

iv. Application is disposed of.

(PRAKASH D. NAIK, J.)

S.P.C.